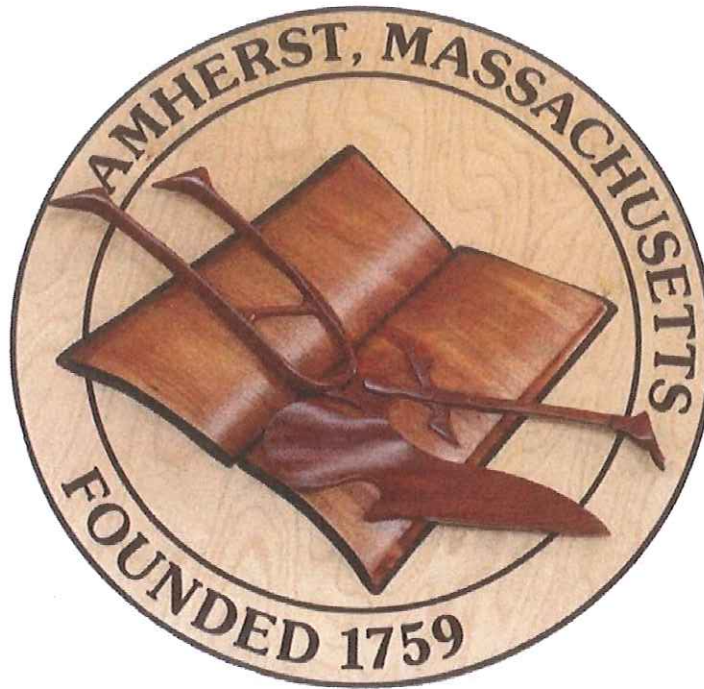


# TOWN OF AMHERST



## Personnel Procedures Manual

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**February 2018**

**Approved by Personnel Board February 28, 2018**

**Approved by Select Board March 19, 2018**



*Town of*



# *Amherst* Massachusetts

## PERSONNEL BOARD

C/O Human Resources & Human Rights  
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TO: Select Board  
FR: D. Anthony Butterfield, Chair of Personnel Board  
CC: Paul Bockelman, Town Manager  
RE: February 2018 Updated Personnel Procedures Manual  
DT: March 19, 2018

The Personnel Board and a review team of eight non-union professionals have completed a comprehensive update to the 2012 Personnel Procedures Manual. We have met with non-union personnel and invited and received their participation and input. The Manual has been reviewed for legal compliance by KP Law, Town Counsel. At our meeting on February 28, 2018, we approved 4-0 (1 absent) the recommended revision.

### **What's New in the Manual?**

An overall more positive tone, reorganized for improved flow, new procedures and guidelines, updated language, and a new compilation of Manager's policies affecting terms of employment. Improvements include:

- ***New Welcome to the Town of Amherst and Mission Statement***
- ***New section listing ALL policies***
  - *New policies include: CORI (Criminal Offender Record Information), Domestic Violence Leave Act, Americans with Disabilities Act Policy, Military Leave Act and Pregnant Worker's Fairness Act.*
  - *Updated Policies including Drug and Alcohol Free Workplace, Technology Use, Policy against Sexual Harassment and Unlawful Harassment, Vehicle Use and Travel.*
- ***New Work and Pay section***
  - *New employee conduct expectations and customer service language*
  - *New attendance expectations language and new telecommuting section*
  - *Increased shift differential for eligible non-union staff to .85 cents per hour*
  - *New guidelines and clarity on contact with media*
  - *New guidelines about animals and pets at work*
  - *New employee fraternization and nepotism language*
  - *New workplace bullying language*
- ***Clarified Recruitment and Selection***
  - *Distinct processes described for job posting, appointment, promotion, transfer and orientation.*

- **New focus on Professional Development**
  - Increased educational assistance benefit from \$250 to \$1000, subject to budget availability.
  - Encouragement to participate in service training and professional development to prepare for advancement
  - Annual performance reviews
  - Incorporation of “employer of choice” language and recommendations from the 2014 Compensation Study.
- **Employee Benefits**
  - Additional bereavement time can be granted by Town Manager/Library Director
  - Capped longevity for new hires after 7/1/18 consistent with SEIU, DPW, Police Supervisors
  - *Clarification* on what happens when employee becomes sick while on scheduled vacation
  - Cap on retirement sick leave buyback benefit for new hires after July 1, 2020
- **Leaves of Absence**
  - *New* parental leave section compliant with MA Parental Leave Act, provides gender neutral parity, at a reduced level.

Town of Amherst Personnel Board

Tony Butterfield  
 Catharine Porter  
 Charles Scherpa  
 Chris Hoffmann  
 Rebecca Woodland

Non-Union Review Team

Stephanie Ciccarello, Sustainability Coordinator  
 Theresa Fleurent, Accounting  
 Jennifer LaFountain, Assistant Collector  
 Joanne Misiaszek, HR  
 Nate Malloy, Planning  
 Briana Sunryd, IT  
 Linda Wentworth, Jones Library  
 Deborah Radway, HR



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# WELCOME TO THE TOWN OF AMHERST

Thank you for choosing the Town of Amherst, the “public employer of choice” in Western Massachusetts. The Town expects that you will find Amherst a friendly, respectful and rewarding place to work. We take pride in assembling and retaining a high performing and motivated workforce. The Town strives to provide employment practices that create a safe, fair and positive environment for staff to achieve their goals in providing services to the Town. This **Personnel Procedures Manual** is a compilation of guidelines, procedures, expectations and benefits provided by the Town. Policies adopted by the Town are attached as Appendices. It provides answers to common questions and codifies the benefits and policies that guide employment. If after reviewing the Manual you have further questions, please consult your department head or the Human Resources Department.

## Mission

The Town of Amherst enjoys a tradition of open, professional, and highest quality government services, excellent education, support for open space and agriculture, and respect for its history. Employees, boards and committees, citizens and town government officials work to promote a future that upholds these traditions as well as practices of cultural, educational, economic and environmental sustainability.

Amherst recognizes and celebrates diversity. Town employees strive to reflect the core values of acceptance and inclusion. We want our differences of race, gender, gender identity, ethnicity, religious affiliation, abilities, sexual orientation, age and class to represent the Amherst community. Services are strengthened by embracing these differences and treating one another with dignity and respect as a means to achieve those goals and standards that are the intrinsic core values of this community.

## ADMINISTRATION, ROLES AND RESPONSIBILITIES

The contents of this manual do not constitute a collective bargaining agreement, employment agreement or guarantee of continued employment between any employee and the Town. Employment with the Town of Amherst is entered into voluntarily, at-will, and both the Town and the Employee may terminate its employment relationship with the other at any time, with or without notice or reason, provided that the Town does not violate federal or state law. The provisions of this manual have been developed at the discretion of Town management and, except for its policy of employment-at-will, may be amended, modified, revoked, rescinded or added to at any time, in the Town's sole discretion. This manual does not and is not intended to create any enforceable rights or promises of any kind with respect to the terms and conditions of employment.

Complete versions of all personnel policies are uploaded to the town website and the employee intranet for 24/7 ease of access. Upon hire, employees are asked to acknowledge receipt of the Manual and affirm their responsibility to read it, comply with its provisions and any revisions made to it.

The **Personnel Board** and the **Town Manager** are both jointly and individually responsible for administering the personnel function in the Town of Amherst. This Personnel Procedures Manual is jointly established by the Personnel Board and the Town Manager pursuant to the following laws:

- Chapter 512 of the Acts of 1972, The Amherst Town Government Act establishes the Town Manager as the Chief Administrative Officer and Personnel Officer to the Town. The Act vests the Town Manager with the authority to appoint and remove all Town employees (except school, library, and elected); and charges the Town Manager with the responsibility to administer all provisions of the Massachusetts General Laws (MGL) and special laws as well as Town By-laws.
- The Amherst Town Government Act, and MGL Chapter 78 vest the **Jones Library Board of Trustees** with the authority to appoint and remove all Library employees. The Jones Library Board of Trustees may vote to delegate all or part of this authority to the **Library Director**.
- The Personnel By-law, adopted pursuant to MGL Chapter 41; Section 108A establishes the Personnel Board and provides it with the authority to make policies and to issue rules and regulations necessary to administer the By-law, as delineated in the Personnel Procedures Manual.
- The Personnel Procedures Manual and policies are subject to change and may be updated at any time to reflect changes in policies, procedures and laws. It is common practice for the Personnel Board to seek employee comment prior to adopting changes. Employees will be apprised of any changes and all updates will be posted to the town website and intranet. There are specific procedures and forms for many of the policies outlined herein. Please direct any questions to your supervisor, department head or the Human Resources Director.

## **Application of Procedures and Policies**

The policies and procedures contained in this manual apply to all municipal non-school employees of the Town of Amherst except elected officials, and members of boards, committees, and commissions. Where there is a conflict between a collective bargaining agreement or individual employment contract and the Personnel Procedures Manual, the collective bargaining agreement, or the employment contract, shall take precedence.

In the event of a conflict between Personnel Procedures Manual and a departmental regulation, the Personnel Procedures Manual shall take precedence unless otherwise stipulated.

## **Collective Bargaining Groups**

The Town Manager is the collective bargaining agent for the Town. In accordance with MGL Chapters 149 and 150 and Chapter 1078 of the Acts of 1973, an agreement must be reached between the Town, through its Town Manager, and an employee group prior to that group's being recognized by the Town.

The Town presently recognizes the following collective bargaining groups:

- Amherst DPW Association and Amherst DPW Supervisors Association
- Mass Cops
- Amherst Police Supervisors Association
- International Association of Firefighters, Local 1764
- S.E.I.U, Local 888



Signed copies of Collective Bargaining Agreements shall be maintained in the Human Resources Office.

## **Personnel Board**

The Personnel Board has conclusive authority to interpret the Personnel By-law (see Appendix A) and to decide all questions relating to its application. The Personnel Board is responsible for the review and maintenance of the Personnel By-law. The Board recommends all Personnel By-law amendments to the Town Meeting for approval. The Personnel Board shall adopt and issue regulations deemed necessary for the administration of the Personnel By-law.

The Personnel Board serves as a Board of Appeals for grievances of Town employees who are not covered by a formal collective bargaining agreement. The appeals procedure is outlined in the Complaints Procedure contained in this manual.

## **Town Manager**

The Town Manager, or their designee, is responsible for the day to day administration of the Personnel By-law. As defined in the Amherst Town Government Act, the Town Manager is the Collective Bargaining Agent for the Town and as such is solely responsible for Collective Bargaining. The Town Manager has the authority to create, establish, reorganize or abolish departments and positions; to establish or revise wage and salary tables, position classifications, and general benefits accorded to employees; to direct the efficient and responsible administration of employees including, but not limited to directing the work activity; determining the methods, means, scheduling, and staffing by which work is to be carried out to maintain the efficiency of governmental operations; to take actions necessary to carry out the duties of an agency in emergencies; assign job classification to pay ranges; hire, promote, or transfer employees; to demote or dismiss employees for proper cause; and to discharge, demote, layoff or suspend employees with the exception of Library employees (see Definitions).

The Town Manager shall review the Personnel By-law periodically and make recommendations to the Personnel Board for amendments. The Town Manager is responsible for the establishment, review, and maintenance of the Personnel Procedures Manual, and other personnel policies including the Equal Employment Opportunity and Affirmative Action policies.

## **Human Resources & Human Rights Director**

The Human Resources & Human Rights Director maintains the Personnel System. The Director periodically reviews the Manual with the Board and maintains an updated copy of the Manual on the Town's website and computer system. In addition, the Director shall periodically provide employees with a summary of changes made to the Manual via written communication, an email or memorandum.

The Director, or designee, is responsible for establishing and maintaining personnel records as may be required by law, and which are necessary for effective personnel management. An individual personnel file for each employee may include, but not be limited to, the following:

- Hiring documents with Personnel Action Form
- Policy receipt acknowledgments
- Training and professional development records and requests
- Employment verification requests

- Employment application and resume
- Background investigation reports, excluding Criminal Offender Records Information (CORI) reports; and
- All personnel actions including, but not limited to, the original appointment, promotion, demotion, reassignment, transfer, separation, or layoff of an employee; results of tests; history of employment and correspondence directly related to the employee's past employment record; changes in the employee's rate of pay or position title; commendations, direct deposit instructions, records of disciplinary action, training records, performance evaluations, and other records that may be pertinent to the employee's employment record.

The Director maintains separate files for employee medical and/or physical or psychological examination records, and CORI reports as required.

Any employee may, upon request to the employee's appointing authority, have access to review their personnel file. The employee's review of the file shall be in the presence of an authorized management employee. No information shall be released from an employee's file unless written authorization is received from the employee.

## **Affirmative Action Officer**

The Town Manager designates the Affirmative Action Officer for the Town. The current designee is the Director of Human Resources and Human Rights. The Officer's duties include promoting the principles of inclusion, diversity, and equal employment opportunity, investigating alleged discriminatory conduct, conflict resolution counseling and conduct of training in discrimination and harassment law.

## **Disabilities Coordinator**

The Disabilities Coordinator is the Town Manager, and this position is responsible for policy and implementation of the ADA Transition Plan. In Amherst, support for this role and for overseeing the physical and online infrastructure, and procedures for disabilities services in the Town is provided by a team comprised of representatives from Conservation and Development, Facilities Management, Library, IT, the School Department and Human Resources who work together to resolve or proactively address issues that may arise.

## **Department Heads**

Department Heads shall review and be familiar with the Personnel Procedures Manual. Administration of departments shall be in accordance with the Personnel Procedures Manual, including the establishment of any department specific employee conduct and work rules which are consistent with the Personnel Procedures Manual. Department Heads shall ensure that their functional area is in compliance with the Town's Equal Employment Opportunity and Affirmative Action policies and are responsible for making recommendations for hiring, promotion, transfer and discipline. Department Heads may recommend revisions of the Personnel Procedures Manual to the Town Manager.

## **Town Employees**

All Town Employees shall acknowledge receipt of the Manual and affirm their responsibility to read it, comply with its provisions and any revisions made to it. All Town employees share joint responsibility



with their supervisors for adherence to the Town's Equal Employment Opportunity and Affirmative Action policies. Employees may recommend revisions of the Personnel Procedures Manual to the Town Manager.

## **DEFINITIONS**

The following words and phrases, wherever used in this Personnel Procedures Manual, shall be defined as indicated below, unless the context clearly requires otherwise:

### **Administrative Leave**

A temporary leave from a job assignment with pay and benefits intact.

### **Anniversary Date**

An employee's anniversary date is generally one year after the date of employment and annually thereafter, and is used as a milestone for generation of performance reviews, longevity, seniority and step increases. An employee who has been on authorized leave of absence for more than 30 days shall have their anniversary date delayed by the number of days of that leave of absence. An employee who is re-employed after terminating employment for a period of more than 30 days shall have their anniversary date delayed by the number of days between employments.

### **Appointing Authority**

The Town Manager is the appointing authority for all municipal employees except for those in the Library. Library employees are appointed by the Library Director pursuant to authority delegated by the Library Board of Trustees, and, with the approval of that Board.

### **Appointment to an Authorized Position**

Appointments may be accomplished through personnel actions of hire, transfer, promotion, demotion, or re-employment. Positions may be established as follows:

#### **Regular Employee**

The employee is scheduled and regularly works at least 20 hours per week for 52 weeks per year and is enrolled in the Hampshire County retirement system. Employees receive all rights and benefits accorded by the Town; time off benefits are prorated for those employees working less than full time.

#### **Part-Time Employee**

An employee whose work hours are consistently scheduled and who is employed for at least 3 consecutive full months (90 days) per fiscal year. The employee may receive limited time off benefits as defined in this manual.

#### **Non Benefited Part-Time Employee**

An employee whose hours are not consistently scheduled or who are election workers, Call Fire Fighters, Constables and outside detail Police Officers, tax work off program participants, work study, paid interns or contracted employees and individuals hired for a specific purpose for under 90 days.

#### **Temporary Employee**

An employee who works at least 20 hours per week for 52 weeks and receives benefits equal to those received by other regular benefited employees. These positions are primarily for hiring temporary replacements for employees on extended leave or when a position is created for a specific project, or non-renewing grant.

### **Classification Plan**

An orderly arrangement of positions into separate and distinct classification levels, with each level containing

those positions that involve similar duties and responsibilities.

**Compensation Plan**

A list of the salary or wage rates and steps for each position in a classification level, ranging from minimum to maximum pay.

**Compensatory Time Off**

An authorized period of absence from work, with pay, which serves as accrued compensation for prior work in excess of a normal work week.

**Demotion**

The movement of an employee from a position in one level to a position in a level having a salary range with a lower maximum rate of pay.

**Department**

An operating unit of Town government funded through one or more budget categories and under the supervision of a single individual appointed by the Town Manager or the Library Board of Trustees.

**Dismissal**

Removal of an employee for cause from the service of the Town.

**Grievance**

Any action focusing on a disagreement between the Town and its employees relating to the application or interpretation of the Personnel By-law or the Personnel Procedures Manual.

**Immediate Family**

Employee's spouse, children, stepchildren, grandchildren, parents, grandparents, step-parents, brothers and sisters, mother-in-law, father-in-law, son or daughter-in-law and other actual persons of the employee's household.

**Layoff**

Removal of an employee because of lack of work, failure of financial appropriation, or other causes that do not relate to the performance of the employee. A layoff shall be converted to termination if the employee is not called back within two years.

**Level**

Part of the classification plan that delineates groups of positions with comparable duties and responsibilities.

**Library Board of Trustees**

The 6-member elected Board of Trustees is the governing body for Amherst's public libraries. The board has legal responsibility for the provision of library services, custody of library property, appointment of the library director, expenditure of funds, and determination of library policy. The Library Board of Trustees has the authority to appoint and remove all Library employees. Where the Library Board of Trustees may delegate all or part of this authority to the Library Director, the Manual will use 'Library Board/Director'.

**Pay Range**

The dollar amount between minimum and maximum pay steps in any classification level.

**Pay Step**

A rate of pay within a pay range. From the minimum to the maximum pay rate of a level, there may be several pay steps.

**Personal Leave**

An authorized period of absence from work, with pay, approved by the Department Head to enable an



employee to take care of personal business.

**Promotion**

The movement of an employee from a position in one level to a position in another level having a salary range with a higher maximum rate of pay.

**Release Time**

An authorized absence during regular working hours for which an employee receives their regular rate of compensation.

**Resignation**

An employee leaving the service of the Town voluntarily for reasons other than retirement that results in end of employment.

**Seniority**

A regular employee's length of continuous service with the Town since date of hire with no break in service. An employee on unpaid leave of absence or lay off will not be granted seniority credit for the term of the leave or the layoff but shall be entitled to past accumulation upon return to work. An employee who is rehired less than six months from separation shall retain seniority for time served and benefits accruals as provided by law. A separate seniority list will be maintained for part-time employees.

**Standard Hours**

The employee in a position classified as regular shall have a minimum number of hours an employee is expected to work each and every week. A regular employee must charge leave time when actual hours worked are fewer than the employee's standard hours. Standard hours will be used to calculate prorated benefits for regular employees who work less than full time.

**Town Manager**

The individual appointed by the Select Board under Chapter 216 of the Acts of 2001 (Amherst Town Government Act).

**Transfer**

The voluntary or involuntary movement of an employee from one position or department to another position or department within the Town organization. The Town Manager has the authority to transfer employees from one position or department to another position or department. The needs of the Town may make it necessary to involuntarily transfer an individual to another position or department.

## **POLICIES**

The Town of Amherst has adopted policies and practices that are intended to create and maintain a friendly, legal, professional and safe work environment. Upon hire, each employee shall provide written acknowledgement of receipt of these policies. The Town may make changes to Policies. Whenever a policy is changed or updated, Human Resources will notify each employee and require subsequent acknowledgment of receipt.

The policies listed below can be read in their entirety in Appendix B or as hyperlinked.

- Commonwealth of Massachusetts Conflict of Interest Law
- Town of Amherst Americans with Disabilities Act (ADA) Policy
- Town of Amherst CORI Policy
- Town of Amherst Domestic Violence Leave Act Policy



- Town of Amherst Drug and Alcohol Free Workplace Policy
- Town of Amherst Equal Employment Opportunity Policy
- Town of Amherst Military Leave Policy
- Town of Amherst Policy Against Sexual Harassment and Unlawful Harassment
- Town of Amherst Massachusetts Pregnant Workers Fairness Act Policy
- Town of Amherst Technology Use Policy
- Town of Amherst Vehicle Use and Travel Policy

## **Commonwealth of Massachusetts Conflict of Interest Law**

The Massachusetts Conflict of Interest Law, Chapter 268A of the General Laws (Appendix B) is a guide to employee conduct and behavior. This law sets a minimum standard of ethical conduct for all Town employees and officials. The purpose of the law is to ensure that public employees' private financial interests and personal relationships do not conflict with their public obligations. All newly appointed employees must take the training required by the Commonwealth of Massachusetts Ethics Commission and periodically acknowledge receipt of a summary of the rules and regulations. For additional information, refer to Appendix B.

## **Town of Amherst Americans with Disabilities Act (ADA) Policy**

Passed by Congress in 1990, the Americans with Disabilities Act (ADA) is the nation's first comprehensive civil rights law addressing the needs of people with disabilities; prohibiting discrimination in employment, public services, public accommodations, and telecommunications. Although the Town Manager is responsible for its implementation, the Town relies on a team approach to addressing the needs of people with disabilities in the community. A citizen Disabilities Access Committee provides advice. A Town of Amherst ADA Policy and Transition Plan was adopted in 2006. For more information, please contact the Human Resources or Planning Departments.

## **Town of Amherst CORI Policy**

In accordance with state law and regulations the Town of Amherst use the Criminal Offender Record Information (CORI) for the criminal history screening of prospective and current employees, subcontractors, volunteers and interns, professional licensing applicants, and applicants for the rental or leasing of housing. The complete policy can be found in Appendix B.

## **Town of Amherst Domestic Violence Leave Act Policy**

The Massachusetts Domestic Violence Leave Act (DVLA) provides an employee, who themselves or a covered family member is a victim of abusive behavior, up to 15 unpaid days in any 12 month period to address issues related directly to the abusive behavior. The complete policy and guidelines can be found in Appendix B and also referenced in the Employee Benefits Section.

## **Town of Amherst Drug and Alcohol Free Workplace Policy**

The Town of Amherst is committed to protecting the safety, health and well-being of all employees and

other individuals in our workplace and has established a drug-free workplace policy. Refer to the complete policy in Appendix B.

## **Town of Amherst Equal Employment Opportunity Policy**

The Town of Amherst is committed to the principles of Equal Employment Opportunity and shall comply with all federal and state laws that have been or shall be enacted for the purposes of eliminating discrimination in all phases of the employment process and the provision of services and programs. The Equal Employment Opportunity policy of the Town is:

It shall be the policy of the Town of Amherst to guarantee equal opportunity to all qualified applicants and to all employees with respect to initial appointment, advancement, compensation, and general working conditions without regard to age, race, color, religious affiliation, gender, gender identity, ethnicity, military or veteran status, national origin, sexual orientation, disability, pregnancy, childbirth or related condition, or genetic information.

For the Town's complete EEO policy and grievance procedure, see Appendix B.

## **Town of Amherst Military Leave Policy**

Under the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA), employers are required to release the employee for military service and are required to re-employ upon return from the military commitment. There is no requirement under Federal Law that the employer compensate the employee during the absence. A complete copy of this policy can be found in Appendix B.

## **Town of Amherst Policy Against Sexual Harassment and Unlawful Harassment**

The Town of Amherst is committed to sustaining a workplace where all employees can work to their fullest potential, in an atmosphere of mutual respect and that is free of harassment of any kind. Harassment of any kind, bullying or any other unlawful harassment or practice by any Town employee, supervisor, or an officer of the Town is prohibited. For the complete harassment policy, please see Appendix B.

## **Town of Amherst Massachusetts Pregnant Workers Fairness Act Policy**

Effective April 1, 2018 the Massachusetts Pregnant Workers Fairness Act will provide needed and reasonable accommodations to pregnant workers in Massachusetts. The Pregnant Workers Fairness Act makes it unlawful for an employer in Massachusetts to discriminate against an employee due to pregnancy or a condition related to pregnancy including, but not limited to, lactation or the need to express breast milk for a nursing child. See Appendix B for the full policy.

## **Town of Amherst Technology Use Policy**

The Town of Amherst's Technology Use Policy is intended to ensure that the Town's technology



resources are available and utilized in an appropriate and responsible manner, in accordance with local, state and federal laws, and the Town's own various policies and procedures. This policy includes and applies to all users of Town equipment and resources. Town equipment and resources are provided for business use only and users should not expect any right to privacy. Full policy is available in Appendix B.

## **Town of Amherst Vehicle Use and Travel Policy**

The Town may provide vehicles or compensation for employees using a private vehicle when work requires extensive and frequent travel. Town vehicles are maintained and operated at Town expense and shall not be used for personal needs or convenience. The Vehicle Use Policy is contained in Appendix B.

When employees are required to travel in the performance of their duties, they will receive reimbursement for expenses for transportation, meals, and lodging in accordance with posted town guidelines. Any such travel must first be authorized by the employee's Department Head with the approval of the Town Manager or Library Board/Director.

## **WORK AND PAY**

### **Employee Conduct**

All Town employees are expected to conduct themselves in a manner which credits the Town, public officials and fellow employees and promotes the public's trust in local government. Employees maintain the highest standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties and may not engage in any conduct which could reflect unfavorably upon the service to the Town and each other. Expectations of Employee Conduct have both legal and ethical implications as described.

### **Customer Service**

The Town of Amherst is committed to providing excellent and efficient customer service. Excellent customer service results in a municipal organization meeting the needs of its residents and citizens in a consistent and professional manner.

All employees of the Town of Amherst are to be made aware of the importance of customer service within the Town's operation. Employees must, at all times, be professional, courteous, understanding and polite in dealing with residents, businesses and other customers whether in person, by telephone, or in writing. Employees should be aware that customer service abilities, in all levels of their work, will greatly impact employment evaluations and advancement opportunities.

Leadership by example is a key component to excellence in customer service. Town management must continually promote in their actions, words and writings the paramount importance of customer service standards. Performance evaluations of management and supervisory personnel will include an evaluation of the ability of the manager to provide high levels of customer service and the ability to train and supervise employees to do the same.

## **Hours of Work**

The standard work week for regular non-union employees shall be either 37.5 hours or 40 hours or prorated for regular part time employees, depending on job description.

## **Attendance**

Regular attendance is essential to the Town's efficient operation and is a necessary condition of employment. Absences from work result in less work getting done and other employees assuming added workloads. Employees are expected to report to work as scheduled and on time. Absences of more than one day must be updated daily unless otherwise arranged. Employees are expected to follow their department's absence reporting procedures. Unreported and unexcused absences may lead to disciplinary action.

## **Timekeeping**

Federal and state laws require the Town to keep an accurate record of time worked in order to calculate employee pay and benefits. Accurately recording time worked is the responsibility of every employee and supervisor. Employees must record and verify daily time worked and submit bi-weekly time sheets to their supervisor for approval. Employees may not work overtime hours or record another employee's time without prior approval from a department head.

## **Payroll**

Employees are paid biweekly through direct deposit of payroll at a banking institution of the employee's choice. Notification of pay is provided by electronic notification of deposit and is available to employees 24/7 through Employee Self Service. A payroll calendar is available on the Intranet.

Massachusetts and/or federal law require certain deductions from employee compensation, including any applicable federal or state income taxes and Medicare. All employee deductions for participation in benefits programs are made through payroll. Employees who have any questions about the amount or manner in which deductions are made from their paychecks should speak with the Payroll and Benefits Coordinator in the Accounting Office.

The Town takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled payday. If there is an error in the amount of pay, the employee must promptly bring the discrepancy to the attention of their supervisor and to the payroll coordinator so that corrections can be made as quickly as possible. This includes overpayment as well as underpayment.

## **Overtime**

When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime hours. When possible, advance notification of the need for overtime will be provided. All overtime work should be pre-approved. Overtime compensation is paid to all non-exempt employees in accordance with federal and state wage and hour restrictions, and is based on actual hours worked. Time off of accrued vacation time, holiday, sick or personal time or any other leave of absence will not be considered hours worked for purposes of calculating overtime.



Compensation for hours worked in excess of the standard work week must be with prior approval and shall be as follows:

- Confidential, clerical, supervisory and administrative Fair Labor Standards Act (FLSA) non-exempt employees with standard 37.5 hours per week schedules who are required to work in excess of 37.5 hours in a defined seven day period, shall, with the prior approval of the Department Head, receive compensatory time off or pay at straight time for all hours worked between 37.5 and 40. Non-Exempt employees who are required to work in excess of 40 hours a week may choose compensatory time off if eligible, **or** pay, at the rate of time and one-half (1.5) for all hours in excess of 40.
- Management employees and those non-union confidential, professional, administrative & supervisory employees designated as FLSA exempt are not eligible for overtime and will be paid regular bi-weekly salaries less time off charged against their regular work schedule..
- A non-exempt employee called back to work prior to their next regular scheduled starting time after having completed their assigned work and left their place of employment, shall be paid overtime pay as stated above for all work on recall. The employee will be guaranteed a minimum of three (3) hours' pay at time and one half, or double time on Thanksgiving or Christmas in addition to the Holiday. This provision does not apply to scheduled work or flexible time.

The provisions of the Fair Labor Standards Act apply to all employees except those exempted from the requirements of this act. A list of position titles by their Fair Labor Standards Act (FLSA) classification is included as Appendix C.

## **Compensatory Time**

Employees may receive compensatory time for hours worked in excess of their scheduled normal work week. Compensatory time may be earned and used in the same week. Sick, vacation, personal and compensatory time (used) shall not be included as hours worked for the purposes of calculating compensatory time. The accumulation, use, and administration shall be under the following guidelines:

- Management employees are expected to work up to 40 hours per week without accruing or requesting compensatory time.
- Professional, confidential, administrative, and supervisory employees designated as Fair Labor Standards Act exempt employees may accrue up to 30 hours of compensatory time for hours worked.
- An accrual of more than 30 hours requires approval of both the department head and Town Manager on the "Over 30 Hours" request form. Employees are encouraged to use compensatory time within one (1) year of its accrual.

## **Flexible Schedule**

Department Heads may, at their discretion, allow employees to work on a flexible schedule to meet individual concerns not inconsistent with the requirements of the department and their position, and within the following constraints:



- Departments are to remain open according to their official schedule.
- Flexible hours may not be used to accrue compensatory time: the hours represented by the flexible schedule must equal the employee's workweek each week.

The Town encourages employees to take their lunch break. Working through lunch is considered an exchange of time and must be preapproved by the Department Head.

## **Telecommuting**

Short-term occurrences of telecommuting may be approved where mutually beneficial. These occurrences must be approved by the employee's Department Head in advance. Certain jobs may not be suited to telecommuting and it is up to the discretion of an employee's Department Head to make this determination. Remote access requests and technology needs for the purposes of telecommuting shall be made by the employee's Department Head to the Information Technology Department for processing. The security of sensitive information accessed remotely must be maintained.

## **Shift Differential**

All regular non-exempt non-union employees who are regularly assigned (not overtime hours) to work night shift hours or hourly part time employees who work hours between 3:00 p.m. and 7:00 a.m and/or who are regularly scheduled (not overtime hours) to work on Saturday or Sunday will receive a shift differential at the rate of \$0.85 per hour.

## **Working Out of Classification**

Temporary assignments with higher pay may be made when the work requires the designation or performance of an employee in the higher classification. Employees who have acting Department Head as a part of their position description are compensated for those duties on a regular basis and, therefore, are not considered working out of class when they are called upon to perform the duties for short term absences. However, when a professional or administrative employee becomes an acting Department Head due to long term absence or vacancy, that employee shall be compensated for the added duties and responsibilities as defined below.

Employees who are assigned temporary work in a higher classification for more than five (5) consecutive working days or for a total of more than twenty (20) working days in a fiscal year due to the absence of another employee shall be paid the minimum rate of the higher classification or one (1) step above their regular rate for hours worked out of class. When the assignment is due to a vacancy, the employee will be paid the out of class compensation from the date of assignment to the higher classification as acting or interim for all hours. The Town agrees not to assign the duties to multiple employees to avoid the payment of compensation.

## **Operations During Weather Events or Emergencies**

The purpose of this policy is to establish guidelines for reporting to work and for early dismissal from work during hazardous weather conditions. On occasion, the Town Manager or Library Director may excuse non-essential employees from reporting to or remaining at work due to the weather or other emergency conditions. If the Town Manager closes down all but essential operations, excused

employees will not be charged with leave.

Charged time will not be changed for an employee on previously scheduled vacation, sick, personal or compensatory leave.

If, at or before the beginning of any day that town or library offices are open, an employee believes it is too hazardous to attempt to travel to work, the employee must follow department reporting protocols and elect the use of accrued vacation, personal or comp time to be used to compensate for that time of absence. Sick leave cannot be charged for school closures. Failure of personnel to report to work when needed may result in disciplinary action if the supervisor can demonstrate that reasonable attempts to report to work have not been made.

If the Town Manager or Library Director subsequently releases employees during the work day, employees will not be charged for time taken after the Town Manager or Library Director releases other employees, except as noted in the second paragraph of this section. If insufficient leave time is accrued, an employee may "make up the lost time" in that or the subsequent pay period.

Whenever Town or Library offices are closed due to a weather or other emergency, notification protocols will be enacted. The Superintendent of Public Works, Fire Chief, and Police Chief and other essential personnel shall be available should their services be required. The Library Director is responsible for procedures and decisions regarding the Jones Library and Branch libraries. No additional compensation or leave will be given to employees who work their regular schedule even if other employees are excused.

## **Contact with the Media**

Employees are required to refer inquiries from the media (print, radio, television, on-line) about matters pertaining to the Town of Amherst to the Town Manager or Library Director unless authorized by their supervisor to speak with the media. Employees may be authorized to discuss specific topics with the media, but otherwise should refer to the Town Manager or Library Director. Employees may not initiate contact in writing or orally with the media without authorization from their supervisor.

## **Bumping**

A laid off regular non-union employee may bump a non-union employee with less seniority who is in an equal or lesser classification level if they possess the minimum qualifications of the position they intend to bump. Upon notification of an impending layoff, Human Resources will provide a seniority list of regular non-union employees by classification. The employee has two (2) weeks from notification to submit written notice to the Human Resources Department of their intent to bump.

An employee filling a position within their same classification level through the bumping procedure will be paid at their current step. When bumping into a lower classification level, an employee will be placed on a step closest to their current salary.

In the event an employee is considered unqualified for the position after initiating the bumping procedure, the employee may file a grievance or re-initiate the bumping procedure for other positions for which they possess the minimal qualifications.



## **Recall**

Employees are eligible for recall for a period of two (2) years from date of layoff. Employees shall be recalled from layoff according to their seniority within the Town when they can demonstrate the ability to satisfactorily perform the duties of a vacant position with minimal training. Ability is determined by the Department Head and Town Manager. An employee recalled within 2 years shall retain the seniority status held at termination without credit for the time laid off.

Employees on a recall list shall be sent notification of a vacant position at the current address on file with the town. They have fifteen (15) calendar days to notify the Human Resources Department in writing of their interest in filling the vacant position for which they have received notice.

An employee recalled to a position in a lower classification may still apply to be recalled to the classification previously held. An employee who declines recall for a position of the same classification level held prior to being laid off loses eligibility for recall except as follows:

- May refuse a part-time position if previously laid off from a regular position or vice versa.
- An employee held a full-time position prior to being laid off who accepts a part-time position through the recall process may remain on the recall list for a full-time position.

## **Animals/Pets at Work**

No personal animals or pets may be brought by employees to their workplace unless the animal is in service to the employee as approved by the Town Manager or their designee as an accommodation under the Americans with Disabilities Act.

## **Employee Fraternization**

Any dating or romantic relationships that occur in a direct or indirect supervisory relationship must be disclosed to the Department Head(s). The Town reserves the right to adjust work arrangements to avoid an actual or perceived conflict of interest.

## **Nepotism**

When in the normal selection process, relatives of Town employees or officials are considered for appointment or promotion, the Town Manager/Library Director shall be notified, in writing, by the Department Head. No person shall be hired or promoted based upon their family relationship to another Town employee. No employee shall be in a position that supervises their relative, directly or indirectly. This policy is intended to eliminate the perception of or potential for preferential treatment of the relatives of Town personnel. Relatives, for the purpose of this policy, shall include all members of the immediate family as defined in this document.

## **Smoking and Use of Tobacco Products**

In accordance with Massachusetts General Laws, Chapter 270, Section 22 and Town of Amherst Board of Health Regulations, there will be no smoking or lighting of cigars, cigarettes, pipes, e-cigarettes, or other devices and products designed for combustion and inhalation, in Town buildings and vehicles, on

Town-owned playgrounds and swimming areas and on Town owned athletic fields during Registered Events.

Employees may smoke only in those outside designated areas at least 20 feet away from Town buildings and its exits/entrances and windows. Any employee who wishes to access a smoking cessation program may contact the Human Resource Office, the Employee Assistance Program or their health care provider for referrals.

## **Workplace Bullying**

Bullying is unwanted, repeated abusive, hostile or inappropriate behavior aimed at an individual or group of individuals. Bullying behavior can take many forms including verbal abuse, workplace pranks, gossiping, deliberately withholding information that would enable a person to do their job or sabotaging someone else's work. Unresolved acts of bullying and bullying behavior are not tolerated and may result in disciplinary action up to and including termination. Complaints shall follow the grievance process.

Workplace bullying shouldn't be confused with legitimate and reasonable management actions such as performance improvement plans, imposing discipline or requesting medical documentation to support a work absence. Workplace bullying also does not include normal workplace conflict that may occur between individuals or differences of opinion of co-workers. If differences do occur they are to be resolved in a professional manner.

## **RECRUITMENT AND SELECTION**

The goal of the recruitment and selection process for the Town of Amherst is to fill vacancies with the most qualified candidates available and in doing so to adhere to the principles of Affirmative Action and Equal Employment Opportunity. The Town supports the practice of, but does not guarantee, promotion or transfer of qualified current employees to fill vacancies and encourages professional development and succession planning that may facilitate its occurrence.

### **Job Posting**

When a vacancy occurs in a position designated as regular, the Department Head may request replacement by notifying the Human Resources Department. The Department Head shall include an updated position description if it has changed and any other desired changes to the vacant position.

All Job postings for regular positions are prepared by, administered and received by the Human Resources Department and reviewed by the Department Head. Each posting shall state the minimum qualifications an applicant must possess in order to be eligible for a position. Such qualifications shall also be stated in the job description which will be made available whenever the position is open.

Unless filled by transfer, job openings will be posted on general government Town building bulletin boards and the intranet for seven (7) calendar days, with a deadline for applications preceding that of any external advertisement. Qualified employees on lay off and subject to recall shall receive notification and be given preferred consideration for vacant positions. In order to be considered an internal applicant, a temporary or part-time employee must have been employed by the Town for a minimum of one year.



To expand and/or diversify the candidate pool, a department head may, after internal posting, decide it is necessary to advertise externally. The department head will work with Human Resources to identify appropriate external advertising sources within budgetary and geographic considerations. Internal and external applications may be considered sequentially or simultaneously at the discretion of the department head. Internal applicants not selected for appointment prior to the position being advertised outside the organization may remain in the applicant pool to be considered with applications received through the advertisement of the position.

All applications are to be submitted via the website or sent/forwarded to the Human Resources Department, unless otherwise advertised. The Human Resources Department shall transmit applications to the hiring Department Head for review, interview and consideration.

Department Heads are encouraged to review their interview schedule, process, questions and the composition of interview team with HR prior to initial interviews, and are responsible for insuring that all Town employment policies have been followed during the interview and hiring process.

## **Appointment**

As provided by the Amherst Town Government Act, the Town Manager is the appointing authority for all positions, except those in the Town Library. Library positions shall be filled by the Library Director, with the approval of the Library Board of Trustees. All appointments, with the exception of emergency appointments, shall be governed by the procedures outlined in this Manual.

Department Heads are responsible for making hiring recommendations to the Town Manager/Library Director. Recommendations for employment must be accompanied by a selection justification, a review of qualifications of other candidates both interviewed and not, and a description of the selection process. Department Heads will consult with the Human Resources Director to develop appropriate terms of hire and secure an offer letter from the Town Manager.

No person will be hired or compensated for their services until the Department Head has initiated and received approval for the hiring from the Town Manager.

An applicant who accepts an appointment, and fails to report to work without appropriate excuse or notification shall be deemed to have declined the appointment and the offer of employment may be withdrawn.

## **Promotion**

The Town encourages employees to develop skills, attain greater knowledge of their work and make known their interests in and qualifications for promotions to more responsible and higher level positions. Following job posting procedures and the recruitment process, an employee who is offered and accepts promotion shall enter the new position at the minimum rate of the grade or range of the new position or the step rate in the Level of the new position at least one full step above the employee's existing rate, whichever is higher. The employee's anniversary date will not change because of the promotion.

## **Transfer**

An employee requesting to transfer to a vacant position must submit a letter of interest stating



qualifications to the Human Resources Office when the notice of the vacancy has been posted for employees. A transfer requested by an employee will be made only for appropriate and valid reasons which serve the best interests or operational needs of the Town. An employee interested in a future transfer can contact the Human Resources Department.

## **Orientation**

All new employees shall receive an orientation to their job responsibilities from their supervisor/department head within the first week of appointment. All regular employees shall receive an additional orientation from Human Resources regarding Town benefits.

# **PROFESSIONAL DEVELOPMENT**

## **Professional Development**

The Town of Amherst is committed to its staff and encourages employees to continue to develop professionally in order to enhance their value in the position and the quality of their work. Training sessions, seminars and/or course work that is relevant to an employee's position and goals may be authorized by their Department Heads, subject to funding availability. The Town will actively seek to arrange on-site trainings and professional development opportunities for employees whenever possible, utilizing training resources available internally, throughout area higher education and applicable professional associations.

## **Educational Assistance Program**

The Town of Amherst encourages and supports professional development through the Educational Assistance Program. Courses for degree programs and/or certificates from an accredited college or university may be considered and must be directly related to the employee's job or career goals with the Town of Amherst. Employees may receive either: 1.) financial assistance upon successful completion or, 2.) release time to take educational courses. An employee may request up to \$1000 per fiscal year in Educational Assistance. All reimbursements are subject to available funding each fiscal year.

### **Eligibility Requirements:**

- Employee must be a regular full time non-union employee
- Employee must be employed by the town for one continuous full year
- Employee must have a positive attendance and performance record
- Employee must submit a signed authorization to the Town allowing the Town to deduct the full amount of the awarded reimbursement from the employee's final check in the event the employee leaves employment with the Town within 6 months of receiving the reimbursement

### **Procedure:**

- Employee must submit the Educational Assistance Request Form to their department head for discussion of course appropriateness **prior** to beginning the course. If the course fulfills the requirement of this program, the Department Head will sign the request form indicating their approval and forward the request to the Human Resources Director for final approval
- Employee must submit the approved request form, transcriptions of course with a grade of "C" or better and a copy of the paid tuition bill

- Reimbursement up to \$1000 will be made directly to employee
- If request is for release time, a copy of the course schedule and approved request form must be provided to the Department Head and payroll prior to the start of class and time sheets will reflect release time taken

## **Performance Reviews**

All employees should be afforded the opportunity for job-embedded professional development in the form of performance reviews. In Amherst, performance reviews are conducted as follows

- a. Initial evaluation
- b. Periodic informal reviews and
- c. Formally, at each anniversary of regular employment.

Performance review conversations are good opportunities to share concerns, aspirations, and successes with your immediate supervisor, and for your supervisor to share their perception of your progress towards attainment of agreed upon goals and objectives.

Assistance, coaching and/or training for employees, including supervisors, will be provided by and may additionally be requested from, the Human Resources Department.

### **Initial Evaluation**

An abbreviated version of the written performance review shall be completed by the supervisor, and shared and discussed with each employee after 6 months of continuous employment. It is especially important for a new employee to receive timely observations regarding their work habits, abilities, attitudes, and performance so that they have a clear understanding of their supervisor's expectations.

### **Periodic Informal Review**

Informal reviews of employee performance are encouraged throughout the year to maintain and improve effectiveness, open communication and reflective practice. Maintaining and improving employee job satisfaction and effectiveness should be a continual process. Periodic feedback must be expressed in person, but is also encouraged through other means (email, phone, etc.).

### **Annual Review**

The dual focus of the annual review is on process and performance record. The review assures an open process in which both the supervisor and the employee participate. It also provides a record that informs and directs modifications of job descriptions, personnel actions, and enrollment in training and professional development activities.

All regular benefitted employees should participate in an annual review of their performance. Effective performance reviews take place within the work day, face to face, and provide employees with clear, specific, timely feedback regarding their performance in relation to the expectations of the essential roles/responsibilities of their position.

Annual reviews of regular employees are conducted on or about each anniversary of employment.



Performance reviews commence with the employee completing a self-evaluation and providing it to their supervisor. The supervisor adds ratings and comments, completes a composite review, and meets in private with the employee to discuss the review. A simultaneous review of the employee's job description, along with identification of performance improvement or professional development opportunities should occur. After consultation, a jointly created review form will be signed, completed, approved by the next level up and submitted to the Human Resources Office. Employees may submit a written response to their review addressing any relevant issues. The performance evaluation and any written response from the employee will be included in the employee's personnel record.

Each employee shall receive a copy of their review. An employee who is dissatisfied by actions taken in the annual review process may pursue the Grievance process.

A satisfactory or better overall evaluation should result in provision of a step increase if the employee has not attained top step. Step increases may be withheld or delayed in any instance where an employee has not demonstrated satisfactory performance within a review period. For exceptionally meritorious performance, an additional step may be granted.

## **NON-UNION CLASSIFICATION PLAN**

The classification of positions, the establishment of a compensation plan, and the periodic updating of classifications are the responsibility of the Personnel Board subject to the approval of the Select Board. All non-union employees of the Town, whether full-time or part-time, shall be employed in positions classified according to the Town's Classification and Compensation Plans defined in this Manual.

When updating the plan, the Town will compare positions with other positions within the organization and with similar positions in other communities with the goal of the classification being fair, equitable, and competitive. As stated in the January 8, 2014 Town of Amherst Proposed Compensation and Classification Plan Final Report (see Town Web Site under Human Resources Department) for non-union employees

*"With regard to compensation, the Town of Amherst will be an employer of choice in western Massachusetts. It is the policy of the Town of Amherst to (1) ensure internally equitable and externally competitive rates of pay for positions; (2) ensure the overall compensation structure matches the market average state-wide; (3) ensure that the overall compensation structure is at the 75<sup>th</sup> percentile when compared to western MA communities; (4) provide a means for planning and controlling direct payroll costs; (5) guarantee compliance with applicable laws and regulations. Further, the principal goals of the compensation administration program are to:*

- 1. Attract and retain the employees qualified and competent to achieve the operating objectives of the Town of Amherst.*
- 2. Establish and maintain a rational Compensation and Classification structure that appropriately compensates each employee for the purpose and level of work performed.*
- 3. Maintain pay ranges that are consistent with the economic and financial position of Amherst MA, yet competitive with those paid by other municipal labor market employers for comparable work in western MA.*
- 4. Provide employees with the basic understanding of the principles of employee compensation and classification system and its administration.*

5. *Keep employees informed of compensation matters affecting them.*

## **Classification Process**

Requests for classification, or reclassification shall be submitted by, or through, the Department Head to the Human Resources and Human Rights Director for review. The request shall include a completed Position Analysis Questionnaire or draft job description as well as any additional information the department wishes to have considered in the evaluation of the position. Employee-initiated requests may be submitted directly to the Human Resources Director. The Human Resources and Human Rights Director shall review the request with the appropriate department head and make a recommendation on the classification to the Town Manager.

The Town Manager may approve a reclassification from one existing position within the classification plan to another existing position and notify the Personnel Board of this change.

The Town Manager shall recommend the classification of new positions to the Personnel Board. If the Personnel Board creates a new position classification, the members shall then seek approval from the Select Board for the position classification. The Human Resources and Human Rights Director shall notify the Department Head of the decision and the effective date of any change.

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## **Compensation plans**

All non-union employees of the Town shall receive a rate of compensation set forth in the applicable Compensation Plan. The Personnel Board annually reviews the Compensation Plan, and is charged with making any recommendations to the Select Board for changes or adjustments to the plan. The Personnel Board seeks input from the Town Manager, Human Resources and Human Rights Director, and non-union employees prior to doing so. Regular employees will receive compensation based on annualized salaries and part time employees will receive compensation based on hourly pay rates.

## **EMPLOYEE BENEFITS**

### **Bereavement Leave**

Regular employees will be allowed to take up to four (4) working days off with pay should a death occur within the immediate family (as defined in the Definitions section of this document). Up to one (1) work day of bereavement leave will be allowed for the employee to attend the funeral or memorial service of an aunt, uncle, cousin, niece, nephew, brother-in-law or sister-in-law. Up to 4 hours of paid bereavement leave time may be used to attend the services of a co-worker. Additional time may be granted for special circumstances upon individual request to the Town Manager or Library Director.

### **Employee Assistance Program**

The Town is committed to supporting its employees and their family members through difficult times. The Employee Assistance Program provides referrals for legal and financial management services, and short term counseling for issues with children, aging parents, finances, addiction, dependencies, stress or other life issues. Any family member or employee may contact or seek the services of the EAP. The Town encourages its staff to seek assistance from All One Health, the Town's Employee Assistance provider. This is a free and confidential service. AllOne Health can be reached 24 hours per day, 7 days



per week at (800) 451-1834.

## **Flexible Benefits**

In accordance with Chapter 416 of 1984, AN ACT ALLOWING THE EMPLOYEES OF THE TOWN OF AMHERST TO CONVERT CERTAIN BENEFITS and subject to budgetary considerations, all regular employees are eligible for the Flexible Benefits Plan each fiscal year beginning July 1 or each calendar year beginning January 1.

### **Sick Leave Conversion to Payment**

Employees will be eligible for sick leave exchange if they have used three (3) or fewer days of sick leave during the last twelve (12) months or have 100 days or more of accrued sick leave. Eligible employees may exchange sick leave and/or vacation leave not to exceed three (3) working days per fiscal year for a monetary reimbursement of equal value.

### **Sick Leave Conversion to Vacation**

Employees will be eligible for sick leave conversion if they have used five (5) days or fewer of sick leave during the last twelve (12) months or have at least fifty (50) days or more of accrued sick leave. Eligible employees may also convert sick leave at a ratio of three (3) sick leave days for every one (1) day of vacation leave, with a maximum of fifteen (15) sick leave days for five (5) vacation leave days per fiscal year.

## **Holidays**

All regular employees shall receive the following holidays unless they are members of a recognized collective bargaining unit, in which case the holidays listed in the collective bargaining agreement shall prevail.

New Year's Day  
Martin Luther King, Jr. Birthday  
Washington's Birthday  
Patriots' Day  
Memorial Day  
Independence Day

Labor Day  
Indigenous Peoples Day (Columbus)  
Veterans' Day  
Thanksgiving Day  
Friday after Thanksgiving  
½ day before Christmas  
Christmas Day

If Christmas falls on Tuesday, employees will receive the full day on Monday. The Town Manager may elect to close municipal administrative offices on Mondays or Fridays when holidays fall on Tuesday or Thursday by allowing employees to charge personal, comp or vacation time for the extra day. Employees without sufficient time accrued may work the time up or be advanced time.

Regular non-union employees will also be granted an additional holiday at a time between November 15 and January 31. This day must be taken during this period and at a time that is mutually agreed upon by the employee and the Department Head.

Employees who work a regular part-time schedule shall receive the holiday hours in the ratio to the number of hours they normally work per week.

An employee who works a schedule different from the Monday through Friday work week shall be entitled to the same number of holidays as employees working the Monday through Friday work week. For those employees who work a Monday through Friday work week, holidays that fall on Saturday will be observed on Friday; holidays that fall on Sunday will be observed on Monday. Holidays shall be observed on the day they actually occur for all other employees.

Payment for a holiday shall be made at the employee's regular rate of compensation. If a holiday occurs within an employee's vacation period, he/she will not be charged vacation leave for the holiday. If an employee is scheduled to work on a holiday, he/she shall be compensated at one and one-half (1.5) times their regular rate of pay for all hours worked on the holiday in addition to their regular rate of compensation.

## **Longevity Compensation**

After the completion of ten years of consecutive regular employment, a regular employee shall be entitled to an annual longevity payment in addition to the employee's base salary. Such payment shall be paid on the first payday after the employee's anniversary date and shall be equal to 1/20<sup>th</sup> of the employee's biweekly pay multiplied by the number of years of accumulated regular employment.

For all regular non-union employees hired after July 1, 2018, the following Longevity Payment shall apply:

- \$ 750 at ten (10) years;
- \$1,000 at fifteen (15) years;
- \$1,250 at twenty (20) years;
- \$1,500 at twenty-five (25) years; and
- \$2,000 at thirty (30) years

Regular employees hired after July 1, 2018 must be active in order to receive payment for the period of time since the previous longevity payment.

## **Personal Leave**

Personal Leave is a paid period of absence from work authorized with prior approval by the Department Head. Regular benefited non-union employees are eligible for a maximum of three (3) paid Personal Leave days during each fiscal year. For all new hires after July 1, 2017 personal leave is prorated during the fiscal year of hire; hired July 1-October 31= 3 days; hired November 1-February 29=2 days; hired March 1-June 30=1 day). New employees may take one (1) personal day during their first 6 months of employment. Employees must request use of Personal Leave from their Department Head at least 48 hours in advance except in emergencies. Employees may carry forward up to two (2) unused personal leave days into the next fiscal year for a total not to exceed five (5) days. Any days in excess of five (5) shall be forfeited.

## **Sick Leave**

All regular employees are eligible to accrue and use paid sick leave. Sick leave provides compensation to the employee for an illness or injury. It is the responsibility of the employee to follow Department protocols to report the need for sick leave. This notification should be made prior to the time the



employee is to report to work or as soon as possible in the event of a serious accident or illness. Failure to follow protocols may result in the denial of sick leave use.

Sick leave with pay is accumulated on an hourly basis and recorded biweekly. It is accumulated at the rate of 15 working days per year and may be accumulated without limit. Part-time employees occupying benefited positions shall accumulate sick leave in ratio to their part-time employment.

Employees who are hospitalized or require an emergency medical visit while on vacation can transfer that designated time of vacation leave to sick leave; such time must be documented by hospitalization or medical provider visit and provided to Accounting.

An employee may use up to fifteen (15) days of accumulated sick leave per fiscal year for serious illness or injury of a member of the employee's immediate family (as defined).

If the employee's absence due to illness exceeds the amount of accumulated sick leave available, the absence may be charged to other accrued leave by the Department Head and with the approval of the employee.

Misuse or abuse of sick leave, including unplanned absences, tardiness or patterns of absence, may subject the employee to disciplinary action. Department Heads may require a medical provider's certification in connection with a claim for sick leave at any time. If sick leave misuse or abuse is suspected, the employee will be notified in writing and a meeting with the employee, the department head, and the Human Resources & Human Rights Director to discuss the Department Head's concerns will be held. See Disciplinary Action below.

### **Part-Time Sick and Personal Leave**

Part-time employees are eligible to earn a prorated benefit of up to sixty (60) hours of sick and personal leave per year. The basis of proration is .0613 hours of leave time for each hour worked. Leave benefits accrue from date of hire and may be used at the completion of the first six months of employment or when approved by the Department Head. Unused leave may be carried forward by continuously active employees from year to year with a maximum available balance of one hundred twenty (120) hours.

All leave hours accrued may be used for sick leave, and up to eight (8) hours per fiscal year for personal business, with notice, use and approval requirements as specified in the manual. No payment for unused sick and personal leave is paid out at the end of employment. Part time employees eligible to participate in this leave benefit program may not participate in any other sick and personal leave benefit program offered by the Town or the Amherst public schools.

## **Sick Leave Buy Back**

All regular employees who terminate their employment with the Town for any reason other than unsatisfactory performance and who have completed ten full years of employment with the Town prior to the date of termination shall receive a single cash payment based on the following criteria for each day of accumulated sick leave.

Payment for accrued sick leave shall be based on the employee's utilization during their term of employment. Upon an employee's resignation or retirement in good standing, payment of accumulated sick leave will be based on the following schedule of average utilization:

<u>Average Annual Sick Leave Utilization</u>	<u>Payment Per Day of Unused Sick Leave</u>			
	<u>10-20 Years Service- Resignation</u>	<u>Maximum Payment</u>	<u>20+ Years Service - Resignation</u>	<u>Retirement*</u>
up to 6 days	\$20	\$2,000	\$40	\$40
over 6, up to 10 days	\$10	\$1,000	\$20	\$20
more than 10 days	none		\$10	\$10

\*From Hampshire County Retirement System

For all new employees hired after July 1, 2020, the maximum payment for retirement shall be \$10,000.

Upon the death of an employee eligible for sick leave buy back, payment shall be made to the estate or heirs of the deceased employee for accrued sick leave using the formula for retirement.

## Vacation Leave

All regular employees are eligible for vacation leave. Part-time benefitted regular employees shall receive vacation in ratio to their part-time employment.

Vacation leave must be requested by an employee to their supervisor or department head with as much advanced notice as possible. Vacation leave time shall not be unreasonably denied unless department efficiency or performance is determined to be impacted. Employees should also not assume that a request to use vacation leave will be automatically granted.

Employees who have approved and scheduled vacation who cancel that time off in advance due to personal or family illness are not required to charge vacation time but are required to charge sick time if absent from work.

For those employees classified as Levels 1 and 2, the following schedule shall be used with the earned vacation leave being credited biweekly and accumulated on an hourly basis:

- Fewer than 5 years of completed service, 10 working days annually.
- More than 5 years but fewer than 10 years of completed service, 15 working days annually.
- More than 10 years but fewer than 20 years of completed service, 20 working days annually.
- More than 20 years of completed service, 25 working days annually.

For those employees designated in Levels 3 and up, the following schedule shall be used, with the earned vacation leave being credited biweekly and accumulated on an hourly basis:

- Fewer than 5 years of completed service, 15 working days annually.
- More than 5 years but fewer than 20 years of completed service, 20 working days annually.
- More than 20 years of completed service, 25 working days annually.

Vacation time accrues by hours paid and is accrued hourly. Employees accrue vacation on a weekly basis from date of hire but may not use vacation leave for the first six months of employment unless negotiated during the hiring process.



## **Vacation Payout or Transfer**

Payment for accumulated but unused vacation shall be made:

- upon the resignation in good standing, retirement, or layoff of an employee
- upon the death of an employee, shall be made to the estate or heirs of the deceased employee

Any vacation balance in excess of two years accumulation shall be transferred to sick leave by the Accounting Office on or about December 31st of each year.

Upon termination of employment for any reason, the amount of vacation accumulation in excess of two years will be transferred to Sick Leave and the final payment for vacation shall not exceed the amount equal to the accumulation allocated for two years of employment.

## **INSURANCE BENEFITS**

### **Health Insurance**

All regular employees who work at least twenty (20) hours each week are eligible for medical insurance. Information regarding this benefit is available during the employee's orientation and during annual open enrollment. The Town is a member of the Amherst Pelham Health Claims Trust, a joint purchase group. The Trust has an Insurance Advisory Committee comprised of representatives from member groups and unions from the Town, Regional Schools and Amherst Public Schools, to advise the Town Manager, who functions as the Chief Administrative Officer of the Trust.

The Town currently contributes 75% of the premium for a Preferred Provider Organization (PPO) plan and 80% of the premium for a Health Maintenance Organization (HMO) plan. The employee pays the balance of the monthly premium amount through biweekly pay deductions. Premiums are withheld prior to the month in which the premium is due, June withholdings pay for July 1 premiums.

Employees may enroll in an insurance plan:

- When eligible after hire- an employee hired prior to the tenth (10th) day of the month will begin coverage on the first (1st) day of the following month. Employees hired after tenth (10th) day of the month will be eligible the first day of the second month after hire.
- During annual open enrollment
- Upon a qualifying event (see below)

An eligible employee electing to waive medical insurance coverage may do so and then elect coverage at a subsequent open enrollment period or upon a qualifying event and meet the requirements of the insurance carrier.

Employees should notify the Human Resources Department or the Payroll and Benefits Coordinator in the Accounting Office of any qualifying event that would affect the employee's insurance coverage (i.e., divorce, dependent child reaching maximum age for coverage under the parent's plan, change in individual or family coverage, planned retirement, or termination). Continued medical insurance coverage is available when an employee or their dependents' status changes (COBRA).

## **Life Insurance**

The Town offers basic life insurance and optional life insurance.

### **Basic Life Insurance**

Pursuant to MGL Chapter 32B, all regular employees who work at least twenty (20) hours each week are automatically enrolled in the basic \$10,000 life insurance coverage.

Enrollment in basic life insurance for an eligible employee hired prior to the tenth (10th) day of the month begins on the first (1st) day of the following month. Coverage will begin one month later for eligible employees hired after the tenth (10th) day of the month. The Town currently contributes 75% of the premium for basic coverage and the employee contributes 25% of the premium. All life insurance premiums are paid by employees through monthly payroll deductions.

### **Optional Life Insurance**

Employees may elect to enroll in the town's group optional life insurance coverage. It is guaranteed at time of hire up to \$40,000 coverage. After hire, employees will need to meet insurance company eligibility requirements. Optional life insurance coverages are based on annual salary for both coverage and premium costs, and are 100% employee paid. Employees who retire with optional life may retain coverage until age 75. Information regarding this benefit is available in the employee orientation packet.

## **Additional Elective Benefits**

The Town offers other types of additional elective benefits:

- Dental Insurance – fully funded by employee through payroll deduction and employee or family plans are available
- Flexible Spending Account Program (FSA) – pre-tax employee only payroll deductions used for employee's out of pocket medical/dental expenses or child care
- Short Term Disability Insurance – if injured off the job and out of work, short term disability will pay a percentage of your salary while out of work; payroll deducted, employee paid. Cost is based on salary and level of desired coverage.
- Whole Life – A supplement to the Basic and Optional Life insurance for additional financial protection; payroll deducted, employee paid

## **Worker's Compensation**

Pursuant to MGL Chapter 152, all regular, part-time, non-benefited part time and temporary employees except uniformed police and fire employees are provided protection to cover the loss of wages and designated expenses arising from employment-related injuries. Forms and reporting procedures are available on the public shared drive. It is the responsibility of both the employee (if able) and their supervisor to notify Human Resources of an accident or injury within twenty-four (24) hours of the occurrence.



Employees may elect to use accrued leave time to make up the difference between statutory workers compensation payments and their average weekly wage. Employees are still required to make payments for voluntary deductions such as health insurance.

An employee deemed to be incapacitated by a work-related injury shall receive paid injury leave for up to five (5) days, to coincide with the waiting period for workers compensation. Until a determination is made regarding the work relatedness of an injury, the employee's sick or other accrued leave will be charged.

## **LEAVES OF ABSENCE**

### **Family Medical Leave**

The Family and Medical Leave Act ("FMLA") of 1993 allows eligible employees up to twelve (12) weeks of unpaid leave, and in limited cases up to twenty-six (26) weeks of unpaid leave per year. Employees may take leave for the following reasons:

- birth of the employee's child or placement of a child with the employee through adoption or foster care;
- the employee is needed to care for a child, spouse, or parent who has a serious health condition; or
- the employee is unable to perform the functions of his or her position because of a serious health condition; or
- Military service-related leaves: Leave for certain qualifying Exigent Circumstances arising out of a covered military member's active duty status; or Leave to Care for a Covered Service member recovering from a serious injury or illness incurred in the line of duty on active duty.

Eligibility rules for FMLA are different from the eligibility rules for the state Parental Leave described below. To be eligible for FMLA leave an employee must have been employed by the Town for at least twelve months, and must have worked at least 1250 regular hours during the twelve month period preceding the commencement of the leave.

Employees may take up to twelve weeks (or up to twenty-six weeks, to care for a covered service member recovering from a serious injury or illness incurred in the line of duty on active duty) of FMLA leave in a twelve-month period. The twelve-month period is a rolling twelve months beginning the first day of the commencement of requested leave. If both spouses are employed by the Town, they are together entitled to a total of twelve weeks of leave for the birth or placement of a child or care of a sick parent. An employee eligible to take leave to care for a covered service member may not take more than twenty-six weeks of leave in any twelve-month period, in total, regardless of the reason for the leave.

Employees wanting FMLA leave are requested to contact Human Resources and notify their Department Head as soon as able or with 30 days' notice by completing a leave request form. If the event giving rise to the need for leave is not foreseeable, then the employee must give such notice as is practicable under the circumstances. Employees should schedule planned medical appointments with due regard for the Town's operational needs.

Employees requesting FMLA Leave must provide medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse, parent, or covered

service member. Forms for Certification are available from the Human Resources Department. All medical documentation regarding FMLA leave will be directed to the Human Resources Department and shall be kept in a file separate and apart from the employee's personnel file. Undocumented requests for medical leave will be denied.

Employees are required to use certain types of accrued or available paid leave before commencing the unpaid portion of FMLA leave. If all sources of accrued time are exhausted, the employee moves into a no pay status.

If medically necessary, leave may be taken on an intermittent or reduced leave schedule. If leave is requested on this basis, the Town may require the employee to transfer temporarily to a position, with equivalent compensation, which better accommodates recurring periods of absence or a part-time schedule.

Employees on leave are entitled to the continuance of group health coverage under the same conditions they received coverage prior to the leave, and employee share of premiums will be deducted from bi-weekly pay. Arrangements for payment will be coordinated with the Accounting Department if employee moves into a no pay status. In the event that an employee elects not to return to work upon completion of an approved unpaid leave of absence, the Town may recover from the employee the cost of any payments made to maintain the employee's coverage, unless the failure to return to work was for reasons beyond the employee's control.

Employees returning from FMLA Leave will be restored to their original positions, or to equivalent positions with equivalent pay and benefits. Employees should contact their Department Head, at least two (2) weeks' before their return date to make arrangements and to provide a return to work certificate if required to do so.

## **Parental Leave**

According to MGL Ch. 149 sec. 105D, an employee who has completed three (3) months of employment shall be entitled to eight (8) weeks of unpaid parental leave for the purpose of giving birth or for the placement of a child under the age of 18 (under 23 if the child is mentally or physically disabled) with the employee who is adopting or intending to adopt the child.

The employee shall give at least two (2) weeks' notice to their Department Head or Supervisor of the anticipated date of departure and the employee's intention to return, or provide notice as soon as practicable if the delay is for reasons beyond the individual's control.

The eight (8) weeks shall be included in the employee's twelve (12) weeks of FMLA entitlement in a calendar year to the extent that the employee is eligible and has not previously exhausted their FMLA leave for the year. At the conclusion of the parental leave period, the employee shall be restored to their previous, or a similar position with the same status, pay, length of service credit and seniority.

Where two (2) employees are requesting leave for the birth or adoption of the same child, they shall only be entitled to eight (8) weeks of parental leave in the aggregate.

The employee shall be entitled to two weeks of paid parental leave for the purpose of giving birth or for the placement of a child under the age of 18 (23 if the child is mentally or physically disabled) with the employee who is adopting or intending to adopt the child. The employee may receive an additional six



weeks of compensation by charging their accrued compensatory, personal, vacation leave or a maximum of 4 weeks sick leave. Any use of sick leave must be concurrent with the birth or adoption. Use of paid leave beyond eight weeks is limited to documented medical necessity. All leave under this section will be included in the 12 weeks available to eligible employees under the Family and Medical Leave Act.

An employee who wants to extend their leave for a period exceeding what is allowed above may request a leave of absence of up to one (1) year from the Town Manager or Library Board/Director.

## **Military Leave**

Any employee called to active duty in the Armed Forces of the government has rights to military leave of absence under USERRA. Additional Information on USERRA rights can be found online at the Federal Department of Labor. Employees of the Town are entitled to a leave of absence during the time of the employees' compulsory services in the armed forces of the United States, or during compulsory annual tours of duty not exceeding seventeen calendar days as provided in Chapter 33, Section 59 of the Massachusetts General Laws as members of reserve components of the armed forces of the United States. The employee shall receive their ordinary remuneration while on annual tour of duty per Federal fiscal year. Employees shall not lose any seniority or previously accrued vacation leave, sick leave, personal leave, compensation time or earned overtime.

Employees must provide a copy of their military orders to the Human Resources Department. Employees returning to Town service within ninety (90) days after military discharge shall not lose seniority standing.

## **Religious Leave**

Religious leave may be granted for the observance of official religious obligations that are not recognized as holidays by the Town. An employee wishing to take religious leave shall submit a request to the Department Head at least 48 hours in advance of such leave. Employees must charge such leave to accrued personal, vacation or compensatory time.

## **Court Leave**

Serving on a jury is a civic duty and is supported by the Town of Amherst. Employees who are called for jury duty during regularly scheduled work hours or summoned on behalf of the Town shall promptly provide their department head with a copy of their summons. Employees will be paid court leave and are required to provide their receipt of service to their department head. The employee must remit to the Accounting Office any compensation received for jury duty or for serving as a witness while on court leave, less mileage reimbursement if provided.

After completion of jury duty for the day, the employee shall report to work if there is two or more consecutive hours remaining of their scheduled work period. The period of the excused absence shall include travel time as well as the time required to serve at the court.

Leave shall not be unreasonably denied when an employee is engaged in personal litigation having no connection with their position as an employee of the Town.

## **Leave of Absence**

The Town Manager or Library Board/Director may grant a leave of absence without pay for a period of up to one (1) year in duration. Granting of a leave of absence without pay is discretionary and includes factors such as replacement, budget, and service levels. Requests for leave shall be requested through an employee's Department Head, whose recommendation shall accompany the request to the appointing authority.

## **SEPARATION**

### **Layoffs**

Whenever there is a lack of work or a lack of funds requiring a reduction in the number of non-union employees in a department of the Town, any layoffs shall be designated by the Town Manager or Library Board/Director. Employees so affected shall be given a minimum of two (2) work weeks' notice. Notice of any vacancies will be included with the notice of layoff. Qualified employees on layoff and subject to recall shall continue to receive notification and be given preferred consideration for vacant positions for two (2) years.

### **Resignation**

Employees are requested to provide a minimum of two weeks' notice of resignation to their Department Head prior to their last day of work. The notice of resignation shall be forwarded to Human Resources with a completed Personnel Action Form. All terminating employees are to be provided with the state guide on Unemployment Benefits and Unemployment Form Receipt Acknowledgement form. As appropriate, the Human Rights & Resources Director will contact the employee regarding an exit interview. Every departing employee has the right to an exit interview.

### **Retirement System**

All regular employees are required by law to belong to the Hampshire County Retirement System (HCRS) ([www.hampshireretirementma.org](http://www.hampshireretirementma.org)) and all part time and non-benefited employees must participate in the Town's Defined Contribution Plan (OBRA) through Empower Retirement.

The Hampshire County Retirement System is part of the statewide retirement system for state, county, and municipal employees, as authorized by MGL Ch 32;34B, Section 19. There are no FICA or Social Security deductions from salary. Regular employees, who are employed without restriction as to the duration of employment and who are employed on a regular schedule consisting of at least 20 hours per week and whose regular salary is at least \$5,000 per year are required to become members of the Hampshire County Retirement System. Retirement deductions are based on date of hire in the Retirement System. For anyone hired after July 1, 1996, the contribution percentage is 9%. An additional 2% is deducted for bi-weekly earnings over \$1153.85 (the portion of earnings over \$30,000).

### **Defined Contribution Plan (OBRA)**

Part time, Temporary or Seasonal Employees, who are employed on a regular schedule consisting of at least 20 hours per week and whose regular salary is at least \$5,000 per year, but whose appointment is for less than 6 consecutive calendar months are not eligible to become members of the HCRS unless



reappointed such that total service exceeds 6 consecutive calendar months. Temporary employees who subsequently become eligible for membership with a HCRS employer may be eligible to purchase prior non-membership service rendered to a HCRS employer. Pursuant to the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), and MGL Chapter 32, all employees not covered by the HCRS must become members of the Town's Defined Contribution Plan and have a minimum deduction of 7.5%.

## **Distribution/Withdrawals**

Payroll deductions for the retirement plans are tax deferred until the employee receives funds from the plan. At the time of retirement or termination, the employee is eligible to receive a pension or return of their contributions, depending upon the employee's status in the system. Employees anticipating a change in employment status should contact the Payroll and Benefits Coordinator. Forms for withdrawal of funds from either plan are available from the Hampshire County Retirement Board or Empower Retirement ([www.empower-retirement.com](http://www.empower-retirement.com)).

## **Medicare Tax**

All Town employees hired after March 31, 1986, must have deductions for the Medicare tax. This deduction is currently 1.45% of the employee's salary, with the Town contributing an amount equal to the employee's deductions.

## **Deferred Compensation**

The Town offers two (2) deferred compensation savings plans (457 plan of the Internal Revenue code) for its employees. Participation in the deferred compensation plan(s) is voluntary and any benefited employee is eligible to participate. Information regarding this benefit is available in the employee orientation packet. The Town does not contribute funds towards these plans. The plan carriers are Empower Retirement ([www.empowerretirement.com](http://www.empowerretirement.com)) and the International City Management Association ([www.icmarc.com](http://www.icmarc.com)).

## **DISCIPLINARY ACTIONS**

It is the practice of the Town to act with integrity and justice toward each employee, recognizing their individuality as a human being and their right to fair, decent, and understanding supervision. That practice carries with it the responsibility to discipline employees who's documented or continued poor performance and/or behavior do not meet expectations, do not conform to applicable standards of conduct, or violate law, regulation or policy.

Whenever possible, the principles of progressive discipline described below shall be followed. The primary goal of each step of the disciplinary process is to identify a problem, state the expected performance or behavior, establish a plan for improvement and state the consequences for failure to do so. However, the principles of progressive disciplinary action shall not bind the Town in instances of extreme behavior or blatant disregard of law, regulation, policy or the safety and security of persons or property.

Department heads and managers are responsible for communicating to employees expected job performance and acceptable behavior and the possible consequences for failing to meet these

expectations. However, employees are assumed to know that their job performance must remain, at minimum, satisfactory and that they should not engage in any egregious behavior.

While not intended to be a complete and inclusive list, the following situations may result in disciplinary actions being taken by the Town toward an employee:

- Acts of insubordination or failure to follow direction;
- Acts of sexual or other unlawful harassment;
- Bullying and/or any form of violence;
- Disclosure of confidential information;
- Failure to comply with federal, state, or town laws;
- Failure to comply with Town policies or departmental rules and regulations;
- Falsification of time sheets;
- Fraud or false representation in securing appointment;
- Frequent and habitual tardiness and/or absenteeism from duty
- Abuse of or excessive sick leave;
- Willful neglect of duty or working unsafely;
- Documented continued poor performance following feedback;
- A documented complaint of rudeness or other inappropriate behavior;
- Unauthorized absence(s);
- Use of alcoholic beverages or illegal drugs while on duty, or reporting for duty under the influence of or after having consumed alcoholic beverages, recreational marijuana or illegal drugs;
- Willful neglect, misuse, misappropriation, destruction, or theft of Town property, materials, or equipment.

The Town reserves the right to place an employee on administrative leave with pay to conduct an internal investigation with regard to the offense to determine whether the nature of the offense warrants discipline, up to and including termination. The placing of an employee on administrative leave shall not itself be considered a disciplinary action.

## **Oral Warning**

An oral warning is an initial disciplinary action. In this interaction, the supervisor meets with the employee to identify the infraction, examine and discuss the root cause, and identifies the need and path for corrective action. The discussion is intended to eliminate misunderstandings immediately and set the desired standards of conduct and performance. A summary of the discussion will be retained by the supervisor but not added to the personnel file unless there is subsequent disciplinary action.

## **Written Reprimand**

A written reprimand either follows an oral reprimand that fails to result in improved behavior, or it is issued for an infraction that is serious enough to warrant an immediate disciplinary action. Prior to a reprimand being issued, a conversation between manager and employee should occur to document and confirm the actions or sequence of events (absenteeism, etc.) that led to the need for a written reprimand. A written reprimand will specify the nature of the infraction, identify previous efforts to correct the infraction, state desired corrective action and the consequences for failure to correct the behavior. It should be signed by the Department Head and issued by the Department Head or a designee manager.



The reprimand should be delivered in person in a private setting. The employee shall be provided an opportunity to respond and is required to acknowledge receipt (not agreement) of the reprimand in writing. The signed written reprimand is copied for the employee and the original is placed in the employee's personnel file. The employee's response shall accompany the reprimand in the personnel file. After a period of twelve months, a single written reprimand will not be used in a chain of progressive disciplinary action if there are no subsequent disciplinary actions of any kind and the employee's performance and conduct have been satisfactory during that time.

A written reprimand may include referral to the Employee Assistance Program (EAP) and provide ways in which to contact the EAP.

## **Suspension**

A Department Head may, for cause, recommend that the Town Manager or Library Board/Director suspend an employee without pay for an offense. Suspension of an employee may be effective immediately. The notice of suspension shall be in writing and shall state the grounds for the suspension and its duration. A copy of the notice shall be sent to the Human Resources Office. The employee may respond in writing if he/she wishes; a copy of the employee's letter shall be forwarded by the recipient to the Human Resources Office. Such letter shall be placed in the employee's personnel file.

## **Demotion for Cause**

When an employee is unable to perform their assigned duties, but able to work at lower paid related duties, a Department Head may recommend that the Town Manager or Library Board/Director demote the individual. As in other disciplinary action, the grounds shall be stated in a letter to the affected employee and discussed in a meeting with HR, the Department Head and the employee.

## **Dismissal**

Under the Amherst Town Government Act, only the Town Manager or Library Board/Director have the authority to terminate employment. A Department Head who proposes to dismiss an employee shall consult with the Town Manager or Library Board/Director regarding the reason(s) for dismissal. In situations where an employee has committed a violation of Town policies or a violation of Federal, State, or local laws, dismissal of the employee may be warranted. The Town reserves the right to conduct an internal investigation with regard to the offense to determine whether the nature of the offense makes it inappropriate for the individual to continue in the employ of the Town.

Dismissal should be conducted in person by the Department Head and/or HR Director and include a letter stating the grounds for the action and the employee's appeal rights of dismissal from the Town Manager or Library Director. If the employee is unavailable, a phone call with certified letter may be mailed to the employee. Unless otherwise specified, dismissal is effective immediately.

Dismissal is automatic when an employee is absent for three (3) consecutive working days without notifying their Department Head. In unusual cases in which the employee could not have contacted a representative of the Town, reinstatement may be arranged with the Town Manager or Library Board/Director.

# **GRIEVANCE PROCEDURE**

The Town encourages conflict resolution and early discussion of issues prior to their rising to the level of grievance. The Town grievance procedure provides a means for employees who are not covered by collective bargaining agreements to bring issues concerning their wellbeing at work to the attention of their supervisors. Specifically, a grievance addresses a disagreement between the Town employee and the Town relating to the application or interpretation of the Personnel By-law or the Personnel Procedures Manual. An employee is entitled to follow the steps of the grievance procedure with freedom from reprisal. Slanderous or libelous statements are not permitted. Questions regarding a potential grievance may be discussed with the Human Resources Department prior to formal filing.

## **Grievable Complaints**

Examples of grievances may include the following:

- Disciplinary actions;
- Actions resulting from the Annual Review;
- Concerns regarding the application, meaning, or interpretation of personnel policies, procedures and processes;
- Acts of reprisal;
- Complaints of discrimination and unlawful harassment or bullying.

## **Non-grievable Complaints**

- Establishment or revision of wage and salary tables, position classifications, and general benefits accorded to employees;
- Work activity accepted by the employee as a condition of employment;
- Statutes or established personnel policies, procedures, rules, and regulations;
- Failure to promote, except where the employee can show that established promotional policies or procedures were not followed or applied fairly;
- The methods, means, scheduling, and staffing by which work activities are to be carried out;
- Discharge, demotion, layoff or suspension from duties because of lack of work, reduction in the work force or job elimination; or
- Voluntary resignation, demotion or transfer.

## **Grievance Steps**

**STEP 1** An employee shall present a grievance in writing to their Department Head within forty five (45) calendar days of its occurrence. This statement must indicate the existence of a grievance and include the condition or practice which is being grieved, what attempts have been made to resolve the issue, and what solution is desired. Any or all parties who were involved may be asked by the Department Head to discuss the facts. The employee may invite someone of their choice to participate as an advisor or representative. A written reply by the Department Head shall be given to the employee within fourteen (14) calendar days. Agreed upon extensions of time limits shall be documented.

**STEP 2** If the Department Head's response does not resolve the grievance, the employee may forward the grievance and the Department Head's response to the Town Manager or Library Director



within seven (7) calendar days after completion of Step 1. The Town Manager or Library Director shall schedule a hearing of the grievance within fourteen (14) calendar days and shall respond within seven (7) calendar days of the hearing.

STEP 3 If Step 2 fails to resolve the grievance, the employee may, within seven (7) calendar days after completion of Step 2, request investigation by the Personnel Board or Library Board of Trustees who shall conduct an investigation and set a schedule for resolution of the grievance.

The Board shall determine its own procedures for investigation provided it shall afford full and equal opportunity to all parties and witnesses for presentation of any matter or relevant proof. The Board has the responsibility to interpret the application of policies and procedures in the case; it does not have the authority to formulate or change policies or procedures.

If the Board decides that a hearing is necessary, the hearing shall be held in a timely manner and as soon as practicable. Such hearing may be held in executive session pursuant to the Open Meeting Law (MGL Ch. 30A Sec. 18-25). The employee may have representation or legal counsel at the hearing at the employee's own expense.

The decision of the Board shall be final and binding and be made in writing to the employee, their Department Head, and the Town Manager or Library Director. All documents relating to the grievance and its disposition shall be placed in the employee's permanent file.

## **Exclusions**

Nothing in this procedure is intended to circumscribe or modify the existing rights of the Town to do the following, provided that none of these rights may be exercised in an arbitrary or capricious manner:

- Direct the work of its employees;
- Hire, promote, transfer non-punitively, assign, and retain employees in positions within the department;
- Demote or dismiss employees for proper cause;
- Maintain the efficiency of governmental operations;
- Relieve employees from duties because of lack of work or for other legitimate reasons;
- Take actions as may be necessary to carry out the duties of an agency in emergencies;
- Determine the methods, means, and staffing by which operations are to be carried on; and
- Assign job classifications to pay ranges;

Employees with probationary, temporary, and part-time without benefits appointments are not deemed to have vested employment rights and may not use the grievance procedure to appeal suspension, demotions, dismissals, or other disciplinary actions or decisions regarding the continuation of their employment status unless the employee can substantiate that such actions were discriminatory on the basis of race, color, creed, national origin, sex, age, handicap, veteran's status, sexual orientation, whistle blowing, or political affiliation.

# Appendix A – Personnel Bylaw

TOWN OF AMHERST, MASSACHUSETTS  
PERSONNEL BYLAW  
AMENDED THROUGH SEPTEMBER 1, 1995

## Section 1 - Name of Bylaw and Authority

This Bylaw shall be known and cited as "The Personnel Bylaw", and is hereby adopted pursuant to the provisions of the General Laws, Chapter 41, Section 108-C, and amendments thereof.

## Section 2 - Coverage

This Bylaw shall be applicable to all persons in the service of the Town except officials elected by popular vote, the Town Manager, and persons under the direction and control of the School Committee. All persons covered hereby shall receive the rate of pay and be subject to the provisions set forth by the Board of Selectmen on recommendation of the Personnel Board, subject to budgetary considerations and appropriation of funds. Nothing in this Bylaw shall be construed to be in conflict with Chapter 31 of the General Laws relating to Civil Service, or with Chapter 1078 of the Acts of 1973 relating to Public Employee Collective Bargaining, which shall prevail if there is any conflict.

It shall be the policy of the Town of Amherst to guarantee equal opportunity to all qualified applicants and to all employees with respect to initial appointment, advancement, compensation, and general working conditions without regard to age, race, creed, color, sex, national origin, or physical condition.

## Section 3 - Personnel Board and Town Manager

There shall be a Personnel Board consisting of five members, each member to serve for a three-year term, expiring on June 30 of the third fiscal year after their appointment. No person in the employ of or holding an official position in the Town government, except Town Meeting members, shall be eligible for appointment to the Personnel Board.

The Board of Selectmen shall appoint four members of the Personnel Board. For one member, the Board of Selectmen shall receive a nomination for appointment from the employees covered by this by-law. One member of the Personnel Board shall be appointed by the Library Board of Trustees of Trustees. Members of the Personnel Board must be residents of the Town of Amherst. The Personnel Board shall elect a Chair.

The Personnel Board has the conclusive authority to interpret this Bylaw and to decide all questions relating to its application. The Personnel Board, upon the recommendation of the Town Manager, or on its own motion, with the advice of the Town Manager, shall promulgate procedures deemed necessary for the administration of this Bylaw. Such procedures shall be delineated in the Personnel Procedures Manual.

## Section 4 - Classification of Positions and Pay Scales

The classification of positions in the service of the Town, the establishment of a compensation plan; and its periodic updating, is the responsibility of the Board of Selectmen on the recommendation of the Personnel Board. The classification plan shall be based on similarity of duties performed and the responsibilities assumed so that the same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same classification.

The Personnel Board shall recommend changes to the classification plan to the Board of Selectmen for



their approval.

A compensation plan shall be established by the Board of Selectmen on the recommendation of the Personnel Board. Such compensation plan shall delineate the levels and steps which employees shall be compensated for their services at.

With the exception of appointments made for emergencies, no employee may be appointed to a position not included in the classification plan.

#### Section 5 - Hours of Work

Procedures regarding the hours of work, compensatory time, and overtime shall be established by the Personnel Board.

#### Section 6 - Vacations

All employees covered by the Bylaw shall be eligible for vacation according to procedures established by the Personnel Board.

#### Section 7 - Sick Leave

Sick leave shall be granted to all benefited employees covered by this by-law according to procedures established by the Personnel Board.

#### Section 8 - Holidays

The Personnel Board shall establish procedures for the granting of holidays to employees covered by this Bylaw. Such procedures shall delineate the process to compensate those employees required to work on holidays.

#### Section 9 - Other Leave

Procedures for the granting of other leaves shall be established by the Personnel Board in compliance with federal and state regulations. Examples of such leaves include, but are not limited to, leave for jury service, military leave, family and medical issues, injury, religious observance, bereavement, personal, and leave without compensation.

#### Section 10 - Adoption and Amendment of Classification, Compensation and Personnel Policies

Any member of the Personnel Board, the Town Manager, any employee, or any citizen of Amherst may suggest policies or procedures for consideration by the Personnel Board. The Personnel Board shall post an agenda of each meeting. Any recommendations of policy shall contain the text of the proposal, an explanation of the proposal, and the implications, financial or otherwise, of the proposal.

The Personnel Board shall act on any proposals within sixty (60) days of the meeting of the Personnel Board at which the proposal is first introduced for consideration by the Personnel Board. The Personnel Board shall make recommendations to the Board of Selectmen with regard to policies. Policies shall become effective upon the approval of the Board of Selectmen, unless some other date is specified when the Board of Selectmen approves the policy. The Personnel Board shall take action with regard to procedures. Procedures approved by the Personnel Board shall become effective on the date the Personnel Board votes to amend the Procedures Manual, unless some other date is specified when the Personnel Board approves the procedure.

#### Section 11 - Annual Report

The Board of Selectmen shall provide a detailed report to the Annual Town Meeting. Such report shall

include any approved changes in any of the policies listed above.

Section 12 - Severability

Each provision of this Bylaw shall be construed as separate to the extent that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.



# Appendix B - Policies

## Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws Chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

### I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts. Town meeting members and charter commission members are not municipal employees under the conflict of interest law.

### II. On-the-job restrictions.

**(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)** A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

**(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)**

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and



payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

**Example of violation:** A town administrator accepts reduced rental payments from developers.

**Example of violation:** A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

**Regulatory exemptions.** There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

**Example where there is no violation:** A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

**Example where there is no violation:** A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

**(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)**

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

**Example of violation:** A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

**Example of violation:** A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

**Example of violation:** A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

**(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)**

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest.

Participation includes discussing as well as voting on a matter, and delegating a matter to someone else. A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

**Example of violation:** A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.



**Example of violation:** A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

**Example:** A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest. In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating. There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

**Example where there is no violation:** An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation. There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

**Regulatory exemptions.** In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they make a prior written disclosure. There is an exemption permitting town clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission's website. **Example where there is no violation:** A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shellfishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases. **(e) False claims.**

**Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)**

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

**Example of violation:** A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

**(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))**



A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

*Example where there is no violation:* A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

**(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))**

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

### III. After-hours restrictions.

**(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))**

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

*Example:* A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

**(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)** Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

*Example of violation:* A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

*Example of violation:* A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.



The status of “special” municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as “special” if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as “special” and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically “special”; selectman in larger towns cannot be “specials.” If a municipal position has been designated as “special,” an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

*Example:* A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

*Example:* A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

**(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)**

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an “inside track” to further financial opportunities. *Example of violation:* Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

*Example of violation:* A selectman buys a surplus truck from the town DPW.

*Example of violation:* A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

*Example of violation:* A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job. There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission’s Legal Division for advice about a specific situation.

**IV. After you leave municipal employment. (See Section 18)**

**(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.**

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not



prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

*Example of violation:* A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

**(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.**

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

*Example:* An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

**(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.**

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter. *Example:* While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

*Example:* A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended. \* \* \* \* \*

This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics>, contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter. Our contact information is at the top of this document.

Version 7: Revised November 14, 2016.

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**ACKNOWLEDGMENT OF RECEIPT**

I, \_\_\_\_\_ an employee at, \_\_\_\_\_  
(first and last name) (name of municipal dept.)

hereby acknowledge that I received a copy of the summary of the conflict of interest law for  
municipal employees, revised November 14, 2016, on . \_\_\_\_\_  
(date)

*Municipal employees should complete the acknowledgment of receipt and return it to the individual who  
provided them with a copy of the summary. Alternatively, municipal employees may send an email  
acknowledging receipt of the summary to the individual who provided them with a copy of it.*

# **Town of Amherst Americans with Disabilities Act Policy**

*Approved, December 2017 by Paul Bockelman, Town Manager*

## **ADA COORDINATOR**

Paul Bockelman, Town Manager, Town of Amherst, 4 Boltwood Ave, Amherst, MA 01002  
413-259-3002(voice) 413-259-2405(fax) [Townmanager@amherstma.gov](mailto:Townmanager@amherstma.gov) (email).

## **TOWN OF AMHERST ADA POLICY**

The Americans with Disabilities Act shall be afforded the same respect and compliance as all other civil rights laws.

## **PUBLIC NOTICE AMERICANS WITH DISABILITIES ACT**

The Town of Amherst does not discriminate on the basis of disability. Program applicants, participants, the public, employees, job applicants, and other are entitled to participate in and benefit from programs, activities, and services without regard to disability. Our grievance procedure, self-evaluation as well as ADA policies, practices and procedures are available upon request and on the Town website. The Town of Amherst coordinates its efforts to comply with the ADA through the Town Manager: Paul Bockelman Town Manager, 4 Boltwood Ave, Amherst, MA 01002 413-259-3002(V):413-259-2405(fax):  
[townmanager@amherstma.gov](mailto:townmanager@amherstma.gov)

## **Town of Amherst ADA Grievance Procedure**

This Grievance Procedure is set forth to comply with the requirements of the American with Disability Act. It may be used by any individual who wishes to file a complaint alleging discrimination on the basis of disability in employment practices, and policies of the provision of programs, activities or services by the Town of Amherst.

A complaint should be submitted to the Town Manager at the address listed above, preferably in writing or a documentable format accessible to the complainant. The complaint should at minimum include the name, address, and phone number or email address of the complainant along with the location, date, and description of the problem. A Complaint should be submitted within 60 days of the alleged discriminatory incident.

Within 15 calendar days of receipt, the Town Manager or the most appropriate Department Head designee will contact the complainant. If the complaint is not immediately resolvable, a time will be scheduled to hear the complaint and discuss possible resolutions. A timely response will be provided in a format accessible to the complainant after evaluation and research. The response will explain the position of the Town of Amherst and offer options for substantive resolution of the complaint.

If this response does not satisfactorily resolve the issue, the complainant or designee may, within 30 calendar days of response, appeal the decision to the Town Manager.

The Town Manager will schedule a meeting to discuss the appeal of the complaint within 10 days of its receipt, and will respond with a final resolution of the complaint in a format accessible to the complainant. All complaints received by, appealed to and responded to by the Town Manager or designee will be kept in accordance with public records retention laws. All reasonable efforts to protect the privacy interests of each party shall be made in accordance with public records laws. All parties shall be afforded due process under the law.



Persons may choose to file with the Massachusetts Commission Against Discrimination (MCAD), located at 436 Dwight Street, Springfield, MA 01103, 413-739- 2145, or One Ashburton Place, Boston, MA 02108, 617-727-3990; [www.mass.gov/mcad](http://www.mass.gov/mcad). The Town Manager may yield jurisdiction in matters pending before MCAD and/or any state or federal agency or court having jurisdiction in the matter.

## **EMPLOYMENT**

### **Reasonable Accommodation Policy**

No otherwise qualified individual with a disability shall, solely by reason of disability, be excluded from employment at the Town of Amherst. Employment review and hiring will be based on ability to perform what the Town of Amherst determines to be the essential functions of a job.

Reasonable accommodations shall be made for any applicant or employee with a disability, unless the Town can demonstrate that the accommodation imposes an undue financial or administrative hardship on the operation of its programs. Job Descriptions provide notice of the availability of reasonable accommodations for job applicants.

For prospective employees, requests for reasonable accommodations needed for the performance of essential jobs functions should be made following receipt of a conditional offer of employment and prior to the first day of employment.

For current employees requests for reasonable accommodations may be sought by contacting a supervisor, and can be made at any time when they become necessary to the performance of essential job functions of employment. Requests should describe the nature and purpose of the requested accommodation. Such requests should be responded to within 2 weeks. The effectiveness of the accommodation and need for additional accommodation will be evaluated as needed. A final decision concerning any requested accommodation that may represent any undue financial or administrative hardship will be made by the Town Manager.

### **Pre-employment medical exams**

A pre-employment medical examination may be conducted after a conditional offer of employment has been made. The Town may make reasonable pre-employment inquiries regarding an applicant's ability to perform job-related functions. A clear description of the essential job function shall be made available to the applicant and medical examiner in such instances. Any medical information retained by the Town shall be securely kept separate from personnel files. Access to medical information shall be limited to those individuals who are determined to have a legitimate need for the information.

### **Employment Training Assurance**

Staff training and orientation process shall include ADA policies, procedures, and practices regarding employment. All employees are provided with access to the Personnel Procedures Manual, in which ADA policies are referenced.

## **NON-DISCRIMINATORY OPERATIONS**

### **Equal Opportunity Policy**

The Town of Amherst is committed to ensuring that persons with disabilities are provided the opportunity to participate in programs, services, and activities. Our goal is to provide participation in the same manner as those of non-disabled persons and in fully integrated

settings. Toward this goal, the Town of Amherst shall make a good faith effort to identify and remove those barriers which prevent persons with disabilities from realizing the same opportunity to participate in programs, services, and activities.

#### **Reasonable Modification Policy**

The Town of Amherst shall make reasonable modification to policies and procedures necessary to accommodate the needs of a person with a disability, unless it can be demonstrated that the accommodation impose an undue burden or alteration of the program. The Town of Amherst complies with applicable laws relative to the use of assistive equipment and trained service animals.

#### **Assurances regarding Surcharges**

The Town seeks cost effective or free services to provide accommodate persons with disabilities. However, no person or persons will be charged a fee for the provision of reasonable accommodations or modifications, auxiliary aids and services, or other cost related to the participation of a person with a disability. Persons who require personnel assistance in order to participate on a town sponsored trip must arrange for and provide that personnel to accompany them.

#### **Integrated Assurance**

People with disabilities will not be required to participate in separate programs. Services will not be provided differently unless the potential for removal of architectural barriers or use of assistive devices and equipment are in adequate or inappropriate to the needs of the individual. In all cases, the affected individuals or representative when appropriate will be involved in the consideration and decision-making processes.

#### **Accessible Transportation Policy**

The Town of Amherst shall make reasonable efforts to provide accessible transportation services, whenever transportation services are made available to non-disabled persons. Individuals in need of accessible transportation should address inquiries to the Senior Center, Recreation Department, PVTA or Stavros. All requests are subject to the availability of space and suitable transportation. When a request cannot be met, notice will be given as soon as possible and at least one day before requested date of trip.

### **EFFECTIVE COMMUNICATION**

#### **Effective Communication Policy**

The Town of Amherst will provide documents, publications, and materials used in government available to persons with disabilities who need them in alternate formats upon request to the Town Manager's office.

#### **Interpreter Services Policy**

The Town will attempt to provide interpretive services upon request to any person needing such services in order to participate in Town of Amherst services and programs. Request to the Town Manager's office should be made two weeks prior to the requested date of service. If unable to provide services, reasonable alternatives will be discussed and provided to the requestor.

### **PROGRAM AND FACILITY ACCESSIBILITY**

Our program site evaluations were prepared and continue to be evaluated by the Town of Amherst. Facility checklists were given an acceptable rating by the ADA Project Coordinator of the Massachusetts Office of Disability and the Justice Department.



# Town of Amherst CORI Policy

*Adopted 4/22/2014*

## I. PURPOSE

This Policy outlines the requirements for the criminal history screening of prospective and current employees, subcontractors, volunteers and interns, professional licensing applicants, and applicants for the rental or leasing of housing. The Amherst Police Department maintains separate CORI policy consistent with its needs and accreditation standards.

## II. APPLICATION

State law and regulations govern the use of Criminal Offender Record Information (CORI) and other criminal history checks by a municipality. When such checks are conducted, such as in connection with an application for employment, volunteer work, licensing purposes, or the rental or leasing of housing, the following practices and procedures will be followed. Violations of CORI laws and regulations are actionable in accordance with state law, and may also result in disciplinary action against an employee found to have violated said laws and regulations, up to and including termination from employment.

## III. POLICY

### A. Access to CORI

All CORI obtained from the Massachusetts Department of Criminal Justice Information System (DCJIS) shall remain **CONFIDENTIAL**, and CORI may only be disclosed to those individuals who have a "need to know" the information in order to fulfill their duties. This may include hiring recommenders, staff submitting the CORI requests, and staff charged with processing applications. However, every effort will be made to limit the number of individuals authorized to access or receive CORI. The Town, through its designated CORI Representative, the Director of Human Resources, must maintain and keep a current list of each individual authorized to have access to, or view, CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.

Pursuant to state regulations, all CORI certifications must be renewed annually, and any persons authorized to access CORI are required to be retrained annually.

### B. Training

All personnel authorized to review or access CORI, which includes all personnel authorized to conduct criminal history background checks, shall review and be thoroughly familiar with the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

### C. Conducting CORI Screening

CORI checks will only be conducted as authorized by the DCJIS and G.L. c. 6, § 172, and only after a CORI Acknowledgement Form has been completed by the individual to be checked.

With the exception of screening for the rental or leasing of housing, if a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, the subject shall be given seventy two (72) hours' notice that a new CORI check will be conducted. If a requestor is screening for the rental or leasing of housing, a CORI Acknowledgement Form shall be completed for each and every CORI check.

In accordance with state regulations, prior to running a CORI check, the applicant's identity will be verified with government-issued photographic identification (such as a driver's license). If the individual has not been issued such a form of identification, then the applicant's information will be verified with a government-issued non-photographic identification, such as a birth certificate or social security card, or other identification authorized by DCJIS. A copy of this identification, together with the CORI Acknowledgment Form, shall be maintained on file by Town for at least one year from the date the Form was signed by the applicant.

In no instance will the applicant be asked or required to provide a copy of his/her own CORI.

D. Use of Criminal History in Employment Background Screening

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied. In most instances, CORI shall only be accessed for applicants who have been tendered a qualified offer of employment. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this Policy and any applicable law or regulations.

E. Use of a Credit Reporting Agency to Conduct CORI Checks

If a Credit Reporting Agency (CRA) is used to conduct CORI checks on applicants, Town will comply with the state regulations particular to use of a CRA.

F. Verifying Subject's Identity Once CORI Record is Received

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant. If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

G. Inquiring About Criminal History

In connection with any decision regarding employment, volunteer opportunities, housing, or licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history, and **PRIOR** to making any adverse decision based upon the applicant's criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

H. Determining Suitability

If a determination is made, based on the information as provided in Section F of this Policy, that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on CORI checks will be made consistent with this Policy and any applicable law or regulation. Factors to be considered in determining suitability may include, but not be limited to, the following:

- (1) Relevance of the offense(s) noted on the record to the position or license sought, or to public housing;
- (2) The nature of the work to be performed (where applicable);
- (3) Time since the conviction;
- (4) Age of the candidate at the time of the offense;
- (5) Seriousness and specific circumstances of the offense;
- (6) The number of offenses;
- (7) Whether the applicant has pending charges;
- (8) Any relevant evidence of rehabilitation or lack thereof; and
- (9) Any other relevant information, including information submitted by the candidate or requested by the organization.

Whenever possible, the applicant is to be notified of the decision and the basis for it in a timely manner.

I. Adverse Decisions Based on CORI

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified promptly. The subject shall be provided with copies of: 1) the organization's CORI Policy; 2) the criminal history at issue, indicating the source(s) of said criminal history; and 3) DCJIS' ***Information Concerning the Process for Correcting a Criminal Record***, or other similar information



published by DCJIS relating to the process for correcting CORI.

The subject will then be provided with a reasonable opportunity to dispute the accuracy of the CORI record and/or submit additional information. In most instances, that reasonable opportunity shall be seven (7) calendar days from date of notification from the Town of the potential of an adverse decision, unless there are extenuating circumstances. Upon the timely receipt of additional documentation/information from the applicant and/or the DCJIS, the Town shall review the information. If the CORI record does not exactly match the identification information provided by the applicant, the Town will make a determination based upon a comparison of the CORI record and documentation provided by the applicant. The Town shall document all steps it takes in this regard.

In the case of license applications, the Town will additionally provide the applicant with information regarding any applicable appeal process, including the opportunity to dispute the accuracy of the CORI at issue.

#### J. Maintenance of CORI

All CORI information, including CORI Acknowledgment Forms and copies of government- issued identification, will be maintained in a secure fashion. This means that hard copies will be stored in a separate, locked, location; electronically-stored CORI will be password protected and encrypted. No CORI shall be stored using public cloud storage methods.

CORI shall be destroyed within seven years from: the date of hire, or date of entrance into volunteer service (employment); date of final licensing decision (licensing); last date of residency or date of housing decision (housing), whichever is later.

Destruction shall occur by shredding or other similar means (hard copies), prior to disposal. Electronically-stored CORI shall be deleted from all hard drives on which they are stored and from any system used to back up the information. Appropriate measures shall be taken to "clean" any computer used to store CORI, prior to disposal or repurposing of such a computer.

#### H. Secondary Dissemination Logs

All CORI obtained from the DCJIS is **CONFIDENTIAL** and can only be disseminated as authorized by law and regulation. A central "secondary dissemination log" shall be used to record *any* dissemination of CORI outside this organization, including dissemination at the request of the subject. That log must contain the following information: 1) the applicant/subject's name; 2) the applicant/subject's date of birth; 3) the date and time of dissemination; 4) the name of the person to whom the CORI was disseminated, including the name of the organization for whom the person works (if applicable); and 5) the specific reason for the dissemination. These logs must be maintained for at least one year from the date of dissemination; they may be maintained electronically or on paper in the same secure manner as other CORI information; and are subject to audit by DCJIS.

## INFORMATION CONCERNING THE PROCESS IN CORRECTING A CRIMINAL RECORD

1. If you have undergone a background check by an agency that has received a criminal record from the DCJIS, you may ask the agency to provide you with a copy of the criminal record. You may also request a copy of your adult criminal record from the Department of Criminal Justice Information Services, 200 Arlington Street, Suite 2200, Chelsea, MA 02150 or by calling (617)660-4640 or go to the Massachusetts iCORI service
2. The DCJIS charges \$25.00 fee to provide an individual with a copy of his/her criminal record. You may complete an affidavit of indigence and request that the DCJIS waive the fee.
3. Upon receipt, review the record. If you need assistance in interpreting the entries or dispositions, please contact the Constituent Assistance and Research Unit at 617.660.4640 between 8:00AM and 6:00PM Eastern Time, Monday – Friday or via email at [iCORI.INFO@state.ma.us](mailto:ICORI.INFO@state.ma.us)
4. The DCJIS does not offer “walk-in” service but you may call our Legal Division at (617)660-4760 for assistance or the CARI Unit of the Office of the Commissioner of Probation at (617)727-5300.
5. If you believe that a case is opened on your record that should be marked closed, you may contact the Office of the Commissioner of Probation Department at the court where the charges were brought and request that the case(s) be updated.
6. If you believe that a disposition is incorrect, contact the Chief Probation Officer at the court where the charges were brought or the CARI Unit at the Office of the Commissioner of Probation and report that the court incorrectly entered a disposition on your criminal record.
7. If you believe that someone has stolen or improperly used your identity and were arraigned on criminal charges under your name, you may contact the Office of the Commissioner of Probation CARI Unit or the Chief Probation Officer in the court where the charges were brought.
8. In some situations of identity theft, you may need to contact the DCJIS to arrange to have fingerprints analysis conducted.
9. If there is a warrant currently outstanding against you, you need to appear at the court and ask that the warrant be recalled. You cannot do this over the telephone.
10. If you believe that an employer, volunteer agency, housing agency or municipality has been provided with a criminal record that does not pertain to you, the agency should contact the CORI Unit for assistance at (617)660-4640.



# **Town of Amherst Domestic Violence Leave Act Policy**

*Adopted January 20, 2015 by Town Manager*

## **I. PURPOSE**

This Policy describes the eligibility and procedural requirements relating to the administration of leave taken pursuant to the Massachusetts Domestic Violence Leave Act, G.L. c. 149, §52E ("DVLA" or "the Act").

## **II. APPLICATION**

This Policy applies to all employees of the Town of Amherst ("Town"), excluding those employees under the supervision and control of the School Committee. Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.

## **III. POLICY**

The Town is committed to complying with the DVLA, as it may be amended from time to time. In the event of any conflict between the Town's DVLA policy and the state law and any applicable regulations, the state law/regulations applicable to the Town and its employees shall prevail.

## **IV. PROCEDURES**

### **A. Eligibility**

To qualify for domestic violence leave under the DVLA, an employee or a covered family member must be the victim of "*abusive behavior*." "Abusive behavior" includes any of the following behaviors: domestic violence, stalking, sexual assault or kidnapping.

*Domestic violence* is abuse against an employee or a covered family member by a current or former spouse, a person with whom the victim shares a child, a person cohabitating with or who has cohabitated with the victim in the past, a relative by blood or marriage, or a person with whom the employee or family member has or had a substantial dating or engagement relationship.

A *Covered family member* includes a spouse, parent, step-parent, child, step-child, sibling, grandparent, grandchild, persons in a substantive dating relationship or who reside together, persons having a child in common, or persons in a guardian relationship. In the case of abuse of a family member, the employee is not entitled to leave if he or she is the alleged perpetrator.

### **B. Duration of Leave**

If an employee or a covered family member of the employee is a victim of abusive behavior, he/she may take up to fifteen (15) days of unpaid leave in any 12-month period. If Family Medical Leave Act benefits are requested and granted, the leaves will run concurrently.

Unless otherwise specified in collective bargaining agreement, employees are required to use personal or vacation leave before taking unpaid leave under the DVLA. Accrued sick leave may only be applied if medically documented as described below and according to contract or department sick leave rules),

### **C. Reasons for Requesting Leave**

Employees may request leave to address issues directly related to the abusive behavior. This includes seeking medical attention, counseling or victim services. Leave may also be taken to obtain legal assistance, to attend or appear in court proceedings, or to meet with a district attorney or law enforcement personnel. It is not a requirement of the Act that the employee maintain contact with the alleged abuser before being eligible for leave.

#### **D. Notice**

Employees must provide sufficient advance notice of the decision to use domestic violence leave unless there is a threat of imminent danger to the health or safety of the employee or a member of the employee's family. An employee who does not give advance notice must notify the employer within three (3) work days that leave is being taken pursuant to the DVLA. The notice may be provided by certain specified individuals other than the employee.

If an unscheduled absence occurs, the employee has 30 calendar days to produce documentation of the need for leave, in accordance with paragraph E, below. Upon receipt, review and acceptance of said documentation, the Town may need to "reverse" any negative action taken in the absence of the documentation in a timely manner.

#### **E. Documentation**

Employees taking leave pursuant to the DVLA may be required to provide documentation evidencing that the employee or employee's family member has been a victim of abusive behavior. If requested, an employee is required to provide such documentation within a reasonable period after the request is made. An employee can satisfy this requirement by providing any one of the following documents:

- A protective order issued by a court as a result of abusive behavior against the employee or employee's family member;
- A document under the letterhead of the court, provider or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior;
- A police report or statement of a victim or witness provided to police, including a police incident report, documenting the abusive behavior;
- Documentation that the perpetrator of the abusive behavior against the employee or family member of the employee has admitted to sufficient facts in court, or has been convicted of any offense constituting abusive behavior;
- Medical documentation of treatment as a result of the abusive behavior;
- A sworn statement provided by a counselor, social worker, or health care worker who has assisted the employee or the employee's family member; or
- A sworn statement from the employee attesting that the employee has been the victim of abusive behavior.

#### **F. Return to Work**

Employees who take leave pursuant to the DVLA will be restored to their original or equivalent position upon return from leave unless circumstances unrelated to the employee's use of leave would have caused a change in employment status. The City/Town shall not retaliate against an employee for exercising his/her rights under the DVLA.

#### **G. Confidentiality**

With limited exceptions set forth by law, information related to the employee's leave shall remain confidential.



**DOMESTIC VIOLENCE LEAVE ACT POLICY**

This acknowledges that I have received and reviewed the Town of Amherst Domestic Violence Leave Policy ("Policy"). By signing this form, I agree to abide by the Policy and any Guidelines promulgated thereunder, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding use of Domestic Violence Leave are continually evolving. Therefore, I understand that my regular review of this Policy, as it may be amended, is required.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# **Town of Amherst Drug and Alcohol-Free Workplace Policy**

*Adopted December 2017 by Town Manager*

## **I. PURPOSE**

This Policy outlines prohibited workplace conduct with respect to controlled substances and alcohol. This Policy complies with the Town's obligations under the Federal Drug-Free Workplace Act, 41 U.S.C. § 8101, et seq.

## **II. APPLICATION**

This Policy applies to all employees of the Town. Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.

## **III. POLICY**

It is the Policy of the Town to provide employees with a working environment that is free of the problems associated with the use and abuse of alcohol and controlled substances. The use of controlled substances is inconsistent with the behavior expected of employees and subjects the Town to unacceptable risk of workplace accidents or other failures that would undermine the Town's ability to operate effectively and efficiently.

## **IV. PROCEDURES**

A. The non-prescriptive use, sale, possession, distribution, manufacture, or transfer of controlled substances, marijuana or alcohol, including on-the-job and while working consumption on Town property, or at any other worksite where employees may be assigned, or elsewhere during work hours, is prohibited, unless such action is a requirement of the employee's job (aka-sale of beer at Cherry Hill Golf Course). Although certain uses of marijuana have been decriminalized in the Commonwealth of Massachusetts, the use of marijuana on Town property or any other worksite where employees may be assigned remains strictly prohibited.

B. Further prohibited is the use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances, marijuana, or alcohol on non-working time to the extent that such use impairs an employee's ability to perform his/her job during assigned work hours.

C. Employees who are convicted of controlled substance-related violations under state or federal law in the workplace, including alcohol or marijuana related violations, or who plead guilty or *nolo contendere* to such charges, must inform their department head or appointing authority within five (5) days of such conviction or plea. Department heads or appointing authorities shall immediately notify the Town Manager.

D. Employees who are convicted or who plead guilty or *nolo contendere* to such drug related violations, or are found to have consumed or to be impaired by controlled substances, marijuana or alcohol while on-duty, may be required to successfully complete a drug abuse or similar program as a condition of continued employment or reemployment with the Town.

E. All employees must sign a statement acknowledging that they have been informed of the rules and requirements of the Drug-Free Workplace Act.



#### V. EMPLOYEE ASSISTANCE PROGRAM

The Town recognizes drug and alcohol dependency as an illness and a major public health problem. The Town's objective is to prevent drug-related offenses prior to their occurrence. Employees who wish to obtain help in dealing with such problems are encouraged to contact the Human Resources Department or their healthcare provider for assistance. Conscientious efforts to seek such help will not jeopardize an employee's job, and will not be noted in any personnel record.

#### VI. SANCTIONS

Violations of any and all provisions of this Policy may result in disciplinary action, up to and including termination from employment.

### **DRUG AND ALCOHOL-FREE WORKPLACE POLICY**

This acknowledges that I have received and reviewed the Town of Amherst's Drug and Alcohol-Free Workplace Policy ("Policy"). By signing this form, I agree to abide by the Policy and any Guidelines promulgated thereunder, and I agree to review periodically any changes or modifications.

I recognize that the law and associated Policy regarding drugs and alcohol in the workplace are continually evolving. Therefore, I understand that my regular review of this Policy, as it may be amended, is required.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

***To be included in employee's personnel file.***

## **Town of Amherst Equal Employment Opportunity Policy**

The Town of Amherst is committed to the principles of Equal Employment Opportunity and shall comply with all federal and state laws that have been or shall be enacted for the purposes of eliminating discrimination in all phases of the employment process and the provision of services and programs. For the Town's complete EEO policy see Appendix B. The Equal Employment Opportunity policy of the Town is:

It shall be the policy of the Town of Amherst to guarantee equal opportunity to all qualified applicants and to all employees with respect to initial appointment, advancement, compensation, and general working conditions without regard to age, race, color, religious affiliation, gender, gender identity, ethnicity, military or veteran status, national origin, sexual orientation, disability, pregnancy, childbirth or related condition, or genetic information.

Under the laws enforced by EEOC, it is illegal to discriminate against someone (applicant or employee) because of that person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), ethnicity, disability or genetic information. It is also illegal to retaliate against a person because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law forbids discrimination in every aspect of employment.

The Town actively seeks ways to ensure equal opportunity for all individuals and is committed to respond promptly to any complaints of violations. The Town Manager is the Equal Employment Opportunity representative of the Town. The Town Manager is responsible for compliance and shall inform Department Heads, board and committee chairs and employees of actions they need to take in order to comply. All Department Heads, chairpersons, and employees are expected to cooperate fully in complying with and implementing the Equal Employment Opportunity Policy.

The Town Manager may delegate responsibility for day to day administration of the Equal Employment Opportunity Policy. That person is currently the Human Rights Director.

Any employee may meet with The Town Manager, Library Director or their designee, (henceforth known as the "arbiter") to discuss an Equal Employment Opportunity Policy concern. Communication with the complainant's Department Head and an informal attempt to resolve the complaint is encouraged prior to filing a formal complaint, but the Department Head may not deny or delay the initiation of a complaint.

Formal Equal Employment Opportunity complaints are to be pursued in accordance with the following Procedure and timeframes, unless the Town and complainant mutually agree to extend:

- STEP 1    An employee must file a complaint with the arbiter within sixty (60) calendar days of the alleged discrimination.
- STEP 2    The arbiter will review and investigate a complaint and render a decision on it within ten (10) working days from the receipt of the complaint.
- STEP 3    If the complainant is not satisfied with the decision of the arbiter, then within ten (10) working days the complaint should be forwarded to the Chairperson of the Personnel Board.



- STEP 4 The Chairperson of the Personnel Board will conduct an investigation, and will render a decision to the complainant and the Town Manager on their findings within thirty (30) working days.
- STEP 5 If the complainant is not satisfied with the decision of the Chairperson of the Personnel Board, the complainant may pursue the case with the Massachusetts Commission against Discrimination (MCAD), or the Equal Employment Opportunity Commission (EEOC).

# Town of Amherst Military Leave Policy

*Adopted October 22, 2014 by Town Manager*

Under the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA), employers are **required** to release the employee for military service and are **required** to re-employ upon return from the military commitment. There is no requirement under Federal Law that the employer compensate the employee during the absence.

The State Law (MGL 33, §59) is referenced in all contracts and the personnel procedures manual. In Massachusetts, state law provides for paid compensation for limited attendance at Annual Training (AT), or more infrequently, when the employee is called to active service. The employee receives **orders** for any activation. Orders that may be entitled to compensation will indicate **Active Duty**.

The maximum number of annual Federal Fiscal Year compensated military leave hours available for Town compensation is **104** hours for all employees except Fire which has a maximum of **120** hours.

It is the employee's responsibility to submit their schedule or orders in advance in order to be eligible for compensation and to accrue eligible leave and seniority time for the duration of the order. For emergencies, the employee may receive the orders after the fact but they still need to submit them. All orders must be scanned to Human Resources and an email or other form of communication needs to be made to make HR aware of their existence.

Although not required by law, The Town of Amherst has historically included military leave (except for deployment when the person is off payroll) as time worked in its accruals of seniority and "other rights and benefits determined by seniority" whether the employee received pay or not for the absence. This includes retirement creditable service, longevity credit and years toward next level of vacation accrual.

Required attendance at **Weekend drills** and **Active Duty Training (ADT)** are not compensable by the Town. Employees may, at their own option, request to use accrued vacation, compensatory, or personal leave (not sick leave) time while on uncompensated military leave. This request must be indicated, with the type of requested leave time, on their payroll submission.

I, \_\_\_\_\_ acknowledge receipt of the above information.  
Printed Name

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

## Payroll

All Military Leave and Pay is pay code 510.

**Annual Training (AT) compensation is entered as hours under pay code 510.** No other dollar adjustment is made.

**Weekend drills and Active Duty Training (ADT) are uncompensated unless offset with accrued leave time.** If the employee is not using personal leave accruals, the payroll processor enters the hours under pay code 510; **and then zeros out the compensation \$\$**. (Doing this will allow the employee to have the time counted as hours worked for the purpose of accruing vacation and sick leave benefits).

Employees requesting use of accrued vacation, compensatory, or personal leave (not sick leave) to



replace or partially offset the zero pay will have their hours entered in payroll **ONCE**. For example, an employee with 40 hours of military time that has requested to use 20 hours of vacation during that time, will have payroll entered as 20 vacation hours, and 20 military leave hours **at zero pay**. They cannot receive military pay compensation and use leave time too for the same hours so these 40 hours can't be entered as both vacation and military leave.

Text of the State Law:

MGL 33, Section 59. Any person in the service of the commonwealth, or of a county, city or town which, by vote of its county commissioners or city council or of its inhabitants at a town meeting, accepts this section, or has accepted similar provisions of earlier laws, shall be entitled, during the time of his service in the armed forces of the commonwealth, under section 38, 40, 41, 42 or 60, or during his annual tour of duty of not exceeding 34 days in any state fiscal year and not exceeding 17 days in any federal fiscal year as a member of a reserve component of the armed forces of the United States, to receive pay therefor, without loss of his ordinary remuneration as an employee or official of the commonwealth, or of such county, city or town, and shall also be entitled to the same leaves of absence or vacation with pay given to other like employees or officials.

Sections referred to in the above:

Section 38 Use of militia; escort duties; emergencies

The commander in chief may order out any part of the organized militia for escort and other duties including special duty and emergency assistance to state and local civil authorities in the preservation of life and property.

Section 40 Use of militia; invasion or insurrection

The commander-in-chief shall order out the armed forces to repel an invasion or to suppress an insurrection made or threatened.

*Example would be deployments to the Middle East – orders are received in advance and if the employee has not already reached the total days allowed for, they could receive pay until that threshold was met.*

Section 41 Use of militia; riots

In case of a tumult, riot, mob or body of persons acting together by force to violate or resist the laws of the commonwealth, or when such tumult, riot or mob is threatened, or in case of public catastrophe or natural disaster, and the usual police provisions are inadequate to preserve order and afford protection to persons and property, and the fact appears to the commander-in-chief, to the sheriff of a county, to the mayor or city manager of a city or to the selectmen of a town, the commander-in-chief, upon his initiative or at the request of such sheriff, mayor or city manager or selectmen, may issue his order directed to the commander of any organization or unit of the armed forces of the commonwealth directing him to order his command, or any part thereof, to appear at a time and place therein specified to aid the civil authority in suppressing such violations, preserving order, affording such protection and supporting the laws.

*Example of this would be the October 2010 Snowstorm where some members of the National Guard were activated. Most did not receive their written military orders until after the fact.*

Section 42 was repealed in 1979

Section 60 Annual Training Period. The armed forces of the commonwealth shall perform during each year not less than fifteen days' training under service conditions at times and places designated by the commander-in-chief.

*This is what the law is typically being used for – the employee receives their orders in advance.*

# **Town of Amherst Policy Against Sexual Harassment and Unlawful Harassment**

*Revised December 2017 by Town Manager*

## **I. Policy Statement**

It is the policy of the Town of Amherst to maintain a working environment free from sexual harassment, or any other form of unlawful harassment or practice. Sexual Harassment in the work place is unlawful. Inappropriate or disrespectful conduct and unwanted communication of a sexual nature or harassing nature is prohibited. The Town of Amherst will not tolerate conduct which creates an intimidating, hostile, humiliating, or sexual offensive work place or work environment. Sexual Harassment or any other unlawful harassment or practice by any Town employee, by another employee, a supervisor, or an officer of the town is prohibited.

The Town recognizes the importance of an employee's right to work in a non-hostile environment regarding sexual and other unlawful harassment. To that end, the Town of Amherst will take all reasonable actions to ensure that no employee be subjected to sexual or other unlawful harassment by any member of the public.

## **II. Definitions**

**Sexual Harassment** - "Sexual Harassment" for the purpose of this policy shall include the definitions of sexual harassment as stated in the guidelines issued by the United States Equal Employment Opportunity Commission in connection with Title VII of the Civil Rights Act of 1964 and Massachusetts General Laws, chapter 151B, Section 1, and Title I of the Civil Rights Act of 1991. In Massachusetts, the legal definition for sexual harassment is this: "sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

All employees should take special note that retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Town of Amherst.

**"Unlawful Harassment or Practice"** - for the purpose of this policy shall include definitions of unlawful practices as stated in guidelines issued by the United States Equal Employment Opportunity Commission in connection with Title VII of the Civil Rights Act of 1964 and Massachusetts General



Laws, Chapter 151 B, section 1, and Title I of the Civil Rights Act of 1991. The Civil Rights act of 1964 prohibits discrimination against any employee due to their race, color, religion, sex or national origin. Chapter 151 B, Section 1 of Massachusetts General Laws identifies as an unlawful practice any discrimination because of the race, color, religious creed, national origin, sex, sexual orientation, genetic information or ancestry of an employee, gender identity, and pregnancy, childbirth or related condition. Harassment becomes unlawful where enduring the offensive conduct becomes a condition of continued employment or (b) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive.

**Employee** - A person hired or authorized to perform work or carry out tasks, duties, or responsibilities on behalf of the Town of Amherst, whether or not the person receives compensation for these activities. A Town board or committee member is an employee of the Town for purpose of this policy. An independent contractor or any employee of any independent contractor shall not be considered an employee of the Town of Amherst for the purpose of the policy unless the independent contractor performs his/her work for the town in a work place controlled by the Town of Amherst under the supervision of a Town employee, office, board, or committee

**Work Place** - Any office, building, facility, vehicle, indoor or outdoor area under the control of the Town of Amherst in which any employee is expected or required to carry out the functions of his/her position.

**Supervisor** - The person, board, committee, or commission to whom an Employee reports or is responsible for the performance of his/her assigned duties on a daily basis.

**Respondent(s)** - The person(s) accused of sexual harassment or unlawful harassment.

### **III. POLICY, PROHIBITED CONDUCT, RESPONSIBILITY OF SUPERVISORS**

**A.** No employee, supervisor, or other official shall engage in any action toward any other Town employee which shall constitute sexual and/or other unlawful harassment under this policy. Specifically, no one shall threaten or insinuate, either explicitly or implicitly, that an employee's refusal to submit to sexual advances will in any way adversely affect the employee's employment, evaluation, salary, advancement, assignment, scheduling, or any other condition of employment or career progress; no employee or supervisor shall engage in any action toward any other Town of Amherst employee which shall constitute any other form of unlawful harassment or practice. No one shall engage in such behavior that may create an offensive or hostile work environment.

**B.** While it is not possible to list all additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness.

1. Unwelcome sexual advances, whether they involve physical touching or not;
2. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body comment about an individual's sexual activity, deficiencies or prowess;
3. Displaying sexual suggestive objects, pictures, cartoons;
4. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;

5. Inquiries into one's sexual experience; and
6. Discussion of one's sexual activities.

C. Unlawful harassment, practices or conduct may include, but not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference works performances.

### **Responsibility of Supervisor**

The Town shall provide department heads and supervisors training in preventing sexual and unlawful harassment in the workplace and each department head and supervisor shall communicate the Town's Policy Against Sexual and Unlawful Harassment to his/her staff. Employees shall receive positive assurance that no employee is required to endure any form of sexual harassment or other unlawful harassment.

Any supervisor, department head or other Town official in charge of a work place who knows of any sexual harassment or other unlawful harassment shall take appropriate remedial action to stop, correct, or terminate the behavior. This action shall be taken even if no complaint is filed by an in connection with such harassment.

No supervisor or department head in charge of a work place shall permit any form of sexual harassment or other unlawful harassment to be directed at any employee in the work place by any vendor, customer, and member of the public or any other person present in the workplace.

Supervisors and Department Heads should clearly communicate to employees that unwelcomed and unlawful harassing conduct will not be tolerated. Any supervisor in charge of a work place who knows of any unlawful harassment shall take appropriate remedial action to stop, correct, or terminate the behavior.

## **IV. PROCEDURE**

Reporting a Charge of Sexual Harassment or Unlawful Harassment:

- A. **REPORT:** Any employee who feels he/she has been subjected to unlawful or sexual harassment should document in detail the incident (s) or conduct and report it immediately utilizing the Town's Sexual and Unlawful Harassment Complaint Form (attached). This form is optional and is provided as a courtesy. A complaint can be filed verbally or via email or letter. An employee making a claim should be willing and able to cooperate in the investigation of the claim.

An employee should report a charge of unlawful or sexual harassment to his/her immediate supervisor or department head. If the charge is against the supervisor or department head or if an employee does not wish to report a charge of unlawful or sexual harassment within his/her department, the employee may alternatively report to the Director of Human Resources & Human Rights, (413-259-3119) or the Town Manager (413-259-3002) all at Town Hall, 4 Boltwood Avenue, Amherst MA 01002.

A supervisor who receives a complaint shall report the charges to their department head unless the charge involves the department head. In such case, the supervisor is directed to report the charges to the Town Manger. The department head receiving a complaint shall inform the Town Manager and the Director of Human Resources/Sexual and Unlawful Harassment Officer. In every case of an allegation of sexual or unlawful harassment the attached Sexual Harassment or Unlawful



Harassment Complaint Form will be completed or delivered orally to person receiving the complaint.

The department head, Town Manager or the Director of Human Resources & Human Rights (acting in the capacity of Sexual Harassment or Unlawful Harassment Officer) may discuss the complaint with the person bringing the charges if it is necessary to determine if the allegation falls within the scope of this policy against sexual harassment or unlawful harassment. If the initial determination is that the allegation falls within the scope of the policy, the Town Manager shall appoint a trained sexual or unlawful harassment investigator to conduct a thorough and impartial investigation. The Investigator will make a report of findings to the Town Manager.

If the department head, Town Manager or Sexual Harassment Officer determine that the complaint does not fall within the scope of this policy, the complaint should be addressed according to appropriate supervisory and disciplinary procedures. If the complainant does not agree with a finding of no sexual harassment or unlawful harassment, an appeal may be made to the Town Manager (see Section VII).

The Employee Assistance Program (EAP) is available for consultation and counseling regarding unlawful or sexual harassment, but consultation with EAP is confidential to the employee and will not result in follow-up and investigation

- B. **RETALIATION:** In all instances in which a complaint is made, the employee making the complaint, or any witness involved in an investigation, will be afforded protection from retaliation. Any form of retaliation against a complaint or witness is prohibited and unlawful and will result in appropriate disciplinary action
- C. **CONFIDENTIALITY:** in the investigation is of the utmost importance to protect the complainant, respondent and the employer. Lack of confidentiality may lead to damaged careers/reputations and may undermine confidence and trust in the employer. All communications regarding the complaint, both written and oral, should be confidential. Information should be disclosed only on a need to know basis and with the understanding that the recipient has a duty to preserve confidentiality.

V. **INVESTIGATION:** All sexual harassment complaints shall be investigated by a trained and unbiased investigator assigned by the Town Manager. The Sexual Harassment or Other Unlawful Harassment Officer shall serve in an advisory capacity to the supervisor if requested and appropriate. Any investigation shall be thorough and impartial and shall be pursued with all practical discretion and confidentially in a timely manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include a private interview with the person filing the complaint and with witnesses. The investigator will interview any Amherst town employee alleged to have committed sexual or unlawful harassment and will request to interview non employee(s) alleged to have committed sexual or unlawful harassment. When the investigation is completed, the finding of the investigation will be communicated to both the complainant and the respondent.

The rights of the respondent shall not be compromised by such confidentiality. If the conduct of any Town employee forms the basis of the complaint, the person investigating the complaint shall give the person allegedly behaving in an offensive way an opportunity to discuss and respond to the complaint. This procedure is not a criminal procedure, and the respondent does not have the right to question the complainant directly. All matters of conduct should be specifically detailed by the investigator. All



records of the investigation procedure and the resolution shall be retained by the Sexual Harassment and other Unlawful Harassment Officer.

At the conclusion of the investigation, the investigator shall recommend to the Town Manager a finding with regard to the complaint and the behavior of the respondent. The basis for a finding is the administrative procedure is the “preponderance of evidence” (not the “innocent until proven guilty beyond a reasonable doubt” basis that applies to criminal procedures). The department head or Town Manager shall inform the complainant and respondent of the results of the investigation.

**VI. DISCIPLINARY ACTION:** If it is determined that inappropriate conduct has been committed by an employee, the Town will take such action as is appropriate under the circumstances. Disciplinary action will be taken in accordance with the provisions of the Personnel Procedures Manual and/or collective bargaining agreements, and may range from counseling to demotion to termination or such other forms of disciplinary action as deemed appropriate under the circumstances. In any complaint which is found to involve sexual and or unlawful harassment, the discipline shall be determined by the Town Manager.

**VII. APPEAL:** If the complainant or respondent disagrees with the recommendation of the department head as to a course of action, the complainant or respondent may make a complaint to the Town Manager. The Town Manager shall review the complaint and the investigation and may, if it appears warranted, conduct a separate investigation into the complaint. If merit is found in the complaint, the Town Manager shall initiate any of the courses of action of this policy or any other course of action as may be appropriate.

**VIII. STATE & FEDERAL REMEDIES:** In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of The Equal Employment Opportunity Commission (EEOC) at 1-800-669-4000 which has a 180 day filing requirement or the Massachusetts Commission against Discrimination (MCAD) at 1-413-739-2145. A charge of discrimination must be filed in person at one of the Massachusetts Commission Against Discrimination (MCAD) offices. With few exceptions, the MCAD only accepts complaints based on incidents that occurred within the last 300 days. If you have a disability and need assistance to file a complaint, call the office to request that assistance. Using the Town complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a specific time period of opportunity for filing a claim. The EEOC website is [www.eeoc.gov](http://www.eeoc.gov) and the MCAD website is [www.mass.gov/mcad](http://www.mass.gov/mcad). Both websites contain additional information.

**IX. RECORDS:** Every Harassment Complaint Form of a sexual nature and all reports of investigation, recommendation, and disposition will be forwarded to the Sexual Harassment Officer when complete. Disciplinary actions also will be filed in individual personnel files in accordance with the Town’s personnel bylaw/collective bargaining agreements.

**X. COLLECTIVE BARGAINING AGREEMENT CONFLICTS:** Any conflict regarding this policy and any collective bargaining agreement shall be resolved in favor of the agreement.



TOWN OF AMHERST  
SEXUAL or UNLAWFUL HARASSMENT COMPLAINT FORM (Optional)

Complainant: \_\_\_\_\_ Job Title: \_\_\_\_\_

Department: \_\_\_\_\_ Immediate Supervisor: \_\_\_\_\_

Date and Time of Incident(s): \_\_\_\_\_

Location: \_\_\_\_\_

Name(s) of  
Respondent(s): \_\_\_\_\_

Name of  
Witnesses: \_\_\_\_\_  
\_\_\_\_\_

**Description of Incident or Conduct** Please describe actions of all person(s) involved, including you. Attach separate sheets if necessary. Please describe where the specific event occurred; the circumstances; and what happened in as much detail as possible.

How did you feel after the incident?

Describe any steps taken to try to stop harassment:

Any other information complainant believes to be relevant to the harassment complaint:

Complainant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Complaint submitted to: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Title (Printed): \_\_\_\_\_ Date Received: \_\_\_\_\_

Signature of Recipient: \_\_\_\_\_

# **Town of Amherst Massachusetts Pregnant Workers Fairness Act Policy**

*Adopted December 2017 by Town Manager*

## **I. PURPOSE**

On July 27, 2017, Governor Charlie Baker signed into law An Act Establishing the Massachusetts Pregnant Workers Fairness Act, Chapter 54 of the Acts of 2017. The Pregnant Workers Fairness Act will provide needed and reasonable accommodations to pregnant workers in Massachusetts.

## **II. APPLICATION**

Effective April 1, 2018, this Policy applies to all employees of the Town of Amherst ("Town"), excluding those employees under the supervision and control of the School Committee. Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.

## **III. POLICY**

The Town is committed to complying with the Pregnant Workers Fairness Act. In the event of any conflict between the Town's policy and the state law and any applicable regulations, the state law/regulations applicable to the Town and its employees shall prevail.

## **IV. PROCEDURES**

### **What the law does:**

The Pregnant Workers Fairness Act makes it unlawful for an employer in Massachusetts to discriminate against an employee due to pregnancy or a condition related to pregnancy including, but not limited to, lactation or the need to express breast milk for a nursing child. The law updates MGL Chapter 151B, the Massachusetts anti-discrimination law to include these new provisions.

### **Specifically, the law makes it unlawful to:**

1. Take adverse action or retaliate against an employee who requests or uses a reasonable accommodation for pregnancy or related medical conditions. This includes, but is not limited to, failing to reinstate the employee to the original employment status or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits and other applicable service credits when the need for reasonable accommodation ceases.
2. Deny an employment opportunity to an employee if the denial is based on the employee's pregnancy or related condition.
3. Require a pregnant employee or employee with a pregnancy related condition to accept an accommodation that the employee chooses not to accept, if that accommodation is unnecessary to enable the employee to perform the essential functions of the job.
4. Require an employee to take leave if another reasonable accommodation may be provided without undue hardship to the employer.
5. Making pre-employment inquiry of a job applicant related to pregnancy, childbirth, or a related condition.

The law also sets up a process for a pregnant employee or pregnant prospective employee, or an employee or prospective employee with a pregnancy related condition to engage with an employer in establishing reasonable accommodations.

- Upon the request of an accommodation from the employee or prospective employee, the employee and employer must engage in a timely, good faith and interactive process to determine an effective, reasonable accommodation to enable the employee to perform the essential functions of the position.



**Reasonable accommodations:** Under the law, reasonable accommodations include, but are not limited to:

- More frequent or longer paid or unpaid breaks
- Time off to attend to a pregnancy complication or recover from childbirth with or without pay
- Acquisition or modification of equipment or seating
- Temporary transfer to a less strenuous or hazardous position
- Job restructuring
- Light duty
- Break time and private non-bathroom space for expressing breast milk
- Assistance with manual labor
- Modified work schedule

The Town can only deny a reasonable accommodation for an employee's pregnancy or condition related to the employee's pregnancy, including but not limited to lactation or the need to express breast milk for a nursing child, if the Town can demonstrate that the accommodation would impose an undue hardship on the Town.

**Undue Hardship:** Under the law, the Town has the burden of proving undue hardship, which is defined as an action requiring significant difficulty or expense. In determining undue hardship, employers must consider the following factors:

- The nature and cost of the needed accommodation
- Overall financial resources of the employer
- The overall size of the business of the employer with respect to the number of employees and the number, type and location of its facilities
- The effect on expenses and resources or any other impact on the employer's program, enterprise or business

**Documentation:**

The Town may require documentation about the need for a reasonable accommodation from an appropriate health care professional, unless it is for:

- More frequent restroom, food or water breaks during pregnancy
- Seating
- Limits on lifting over 20 pounds
- Private non-bathroom space for expressing breast milk

If an employee requests an extension of the originally agreed upon accommodation, the Town may require documentation.

The Town is required by law to distribute this written policy to their employees and is available online on the Human Resources website. It is also found in the appendix of the Personnel and Procedures Manual. New employees will receive a copy at the commencement of employment. An employee who notifies the Human Resources Department of a pregnancy or a condition related to the employee's pregnancy shall receive a copy of this policy within 10 days.

**PREGNANT WORKERS FAIRNESS ACT POLICY**

This acknowledges that I have received and reviewed the Pregnant Workers Fairness Act Policy. By signing this form, I agree to abide by the Policy and any Guidelines promulgated thereunder. I understand that my regular review of this Policy, as it may be amended, is required.

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*To be included in employee's personnel file.*

# **Town of Amherst Technology Use Policy**

*Approved by Paul Bockelman, Town Manager June 7, 2017*

## **Purpose:**

The Town of Amherst's Technology Use Policy is intended to ensure that the Town of Amherst's ("Town") technology resources are available and utilized in an appropriate and responsible manner, in accordance with local, state and federal laws, and the Town's own various policies and procedures. The policies contained in this document are intended to work together comprehensively as a single Town Technology Policy ("Policy").

## **Scope:**

This Policy applies to all users ("Users"). Users include, but are not limited to, all Town employees, contractors, visitors, volunteers, committee or board members, interns or any other personnel using, accessing, or otherwise interacting with the Town's hardware, software, and other technology resources and systems ("Resources"). Resources include, but are not limited to, all electronic hardware, software; landline phones, cell phones, smartphones, voicemail, tablet computers, desktop computers, laptop computers, fax/copy machines, printers, peripherals, door access and alarm systems, camera systems, electronic databases, local and wide area networks, email and collaboration systems, internet hardware and data, all media and the facilities containing them, all host or remote technology systems (e.g., workstations/PCs, mobile and handheld devices, telecommunication/radio devices, system software, application software, and data), and communications networks or systems which may be directly, indirectly, or remotely controlled, administered, accessed or otherwise interact with other Town Resources.

All Town employees having previously completed a Technology Use Policy Acknowledgement Form are required to continue observing and abiding by these updated Policies which replaces any and all previous Technology Use Policies. *If any component of this Policy conflicts with any applicable collective bargaining agreement (CBA), the component shall be subject to the CBA, and the remaining non-conflicting features of this policy shall remain in effect.*

## **Privacy Statement:**

**Users should not expect any right of privacy in the use of Town Resources, including electronic communications and information created or stored on the Town's systems.** The Town retains the right to inspect its Resources, including any Town-owned or leased computer or electronic communications equipment, any data contained in such equipment, and any data sent or received by that equipment. The Town will exercise that right when reasonable and in pursuit of legitimate needs for supervision, control, and the efficient and proper operation of the workplace. Users should be aware that appropriately-authorized network administrators may monitor network traffic, and/or access all files, including e-mail files and Internet use history, stored on any equipment.

## **General Use Policy:**

The Town's Resources are owned, operated, administered, and managed by the Town of Amherst. They are provided as a business tool to users to facilitate timely and efficient business use, and are to be used for business-purposes only. The appropriate use ("Appropriate Use") and protection of all Town Resources is expected from all Users. Appropriate Use of these resources is defined as use which is Town business-related. Any other use is inappropriate.

## **Security**



All usernames and passwords are for the exclusive use of the individual to whom they are assigned. The User is personally responsible and accountable for all activities carried out under his/her username, and should take all reasonable precautions to protect his/her password. The password associated with a particular username must not be given or divulged to another person (with the exception of the Systems administrator). No one may use, or attempt to use, a username or password assigned to another person, or pose as another user.

**Use of Town Resources is subject to the following:**

- All Town Resources are the property of the Town. The Town retains ownership of all resources, materials, documents and files stored, maintained, deleted, modified, received, sent, or otherwise accessible via the Town's Resources unless otherwise copyrighted, trademarked, or agreed to by the Town Manager.
- The Town may, without notice, limit, restrict, monitor, block, access, search, review, modify, or disclose the use of any Town Resources.
- The Town may determine what applications are installed or configured on Town Resources assigned to Users. Applications may be installed, modified, updated or removed without notice. The term "Personal Computer" does not suggest that Users have a choice of what is made available to them.
- Any Materials sent to or from Town Resources must comply with federal and state laws regarding the protection of Personally Identifiable Information (PII) (e.g., Date of Birth, Social Security Number, Name and Address information, and where applicable, financial account information), and applicable Record Retention Laws. PII data should always be encrypted.
- All Town Resources are subject to discovery; even if a User believes they have deleted materials, they may be retained in other systems. Users should NOT delete Materials unless they are clearly considered trivial or irrelevant (e.g., an email about coffee/pizza being served somewhere), as they may be subject to Public Records Retention Laws.
- Town Resources may be configured with remote management tools to assist with loading additional applications and software. Users shall not remove, disable, or otherwise modify any applications or software installed by the Town IT Department. The Town IT Department will only assist with the installation of additional applications or software deemed necessary and appropriate for Town-related business use.
- Users who synchronize or store Town information on a portable device such as a smartphone, tablet, or laptop, owned personally or by the Town, **shall set the device to require a passcode or fingerprint prior to each use.** In the event such a device is lost or stolen, the User shall report the device lost or stolen to the IT Department immediately. Users acknowledge by setting up synchronization with Town information, such as Exchange which includes email, contacts, calendars and reminders, the IT Department has the ability to remote wipe such a device.
- The Town reserves the right, but not the responsibility, to monitor any and all aspects of Town Resources and materials; the Town is not responsible for material viewed, downloaded, or forwarded by Users.
- Technology Resources shall be used only for work-related professional or civic purposes.

**Technology Ethics Policy:**

When using Town Resources and materials, all Users will:

- Conduct business in a truthful and accurate manner. Users should never misrepresent themselves in order to gain access to any other Town Resources or materials, or in order to deceive anyone interacting with Town Resources or materials.
- Keep communications and correspondence professional and appropriately personable. Email, the internal network, and the Internet should not be used for communications that express anger or criticism.
- Apply the same grammatical quality and professional letter writing standards that are applicable to paper-based correspondence. Email correspondence should reflect the Town's commitment to quality, performance and professionalism at all levels.
- Be aware that all laws and Town policies related to Sexual Harassment and Unlawful Harassment apply to the use of Town technology systems.
- Make every prudent and reasonable effort to protect against their theft, loss, or damage.
- Access only what is authorized, making no attempt to bypass security or firewall restrictions, and must not disable, render inoperable, or otherwise tamper with Town Resources or materials.
- Not authorize anyone to use their Town accounts for any reason.
- Be responsible for properly locking down access to systems when they are away from them, and be responsible for any materials transmitted, accessed, or otherwise entered or modified from systems or accounts the User is logged into.
- Abide by copyright law and intellectual property rights. Downloading non business-related Materials (e.g., games, music files, videos, etc.) is prohibited.
- Refrain from interfering with the work of others, impacting other Town Resources, causing offense to others, or wasting Town Resources. This includes, but is not limited to:
  - Using Town Resources for any private, personal, unlawful, unethical, commercial, religious, political campaigning, monetary gain, or legally questionable activity.
  - Accessing inappropriate sites including adult content, online gambling, or dating sites.
  - Using encryption technology that has not been approved for use by the Town's IT Department.
  - Using personally-owned technology for conducting Town business, where official Town records are created but not maintained by the Town.
  - Accessing hacking sites or using security hacking tools to attempt to elevate user privileges or to otherwise obtain unauthorized access.
  - Intentionally intercepting, accessing, altering, copying, distributing, moving or removing Town resources or materials without permission.
  - Accessing Town Resources related to other Users, constituents, businesses, or anyone else, without a Town-related business purpose requiring you to do so.



- Creating unnecessary network traffic, load, disruption, or disablement of resources, or establishing any remote control, remote access, or remote monitoring services without the permission of the Town IT Department.
- Loading software or data from untrustworthy sources (e.g., freeware, or shareware), or without ensuring that all files are properly scanned for viruses or other malicious software code prior to introduction to Town Resources.
- Connecting, installing, introducing, or otherwise initiating unauthorized technology into the Town;
- Transmitting, viewing, accessing or making accessible offensive, fraudulent, sexually explicit, profane, obscene, harassing, intimidating, threatening, or defamatory materials.
- Using online shopping sites, social network sites, or media sites for personal use.
- Using Town Resources in a manner which may subject the Town to any liability claim.

### **Official Town Social Media Guidelines:**

Social networks consist of social media content within online communities of people or organizations that share interests and/or activities and use a wide variety of Internet technology to make the interaction a rich and robust experience. Social media may facilitate discussion on Town issues, operations, and services by providing members of the public the opportunity to participate in a variety of ways via the Internet. Examples of social networks and social media (“Social Media”) include, for example, Facebook, blogs, YouTube, Twitter, LinkedIn, Flickr, various 3<sup>rd</sup> party email accounts, instant messaging tools and general websites.

The Town views Social Media positively, recognizes that these tools may significantly influence reputation, and understands that Social Media is the basis for much wider changes taking place in online media that may increasingly affect Town services delivered to constituents. Because of this, the Town has an overriding interest and expectation in deciding official statements or messaging on behalf of the Town on Social Media. The use of Social Media must be tempered with common sense, good judgment, discretion, and responsibility to maximize the benefits of these resources and minimize potential liability.

Town Departments are encouraged to use **Town sponsored** social media to further department goals. The Town’s official uses of Social Media must meet one of the following three categories:

1. As a channel for disseminating Town-related time-sensitive information to the public;
2. As a channel for enhancing communications with constituents, businesses, and stakeholder organizations related to conducting business with the Town; and/or
3. As a channel for marketing, promoting, or otherwise furthering the Town’s goals and objectives by publishing news and articles, facilitating discussions, and communicating information related to Town accomplishments, promotions, or other marketing events.

The Town’s websites (Amherstma.gov, Joneslibrary.org, LSSE.org, AmherstPD.org, CherryHillGolf.org, etc.) will remain the Town’s official, primary and predominant Internet presence.

Wherever possible, content posted to Town sponsored Social Media should also be available on the Town’s primary sites. The Information Technology department can assist with linking from Town sponsored Social Media sites back to official Town websites.

Wherever possible, content posted to Town Social Media should contain links directing users back to the Town’s official websites for in-depth information, forms, documents, or online services necessary to

conduct business with the Town.

The intended purpose of Social Media is to serve as a mechanism for communication between Town departments and members of the public. Town Social Media postings should not contain:

- Comments in support of or opposition to political campaigns or ballot measures
- Profane language or content
- Content that promotes, fosters, or perpetuates discrimination
- Sexual content or links to sexual content
- Solicitations of commerce
- Conduct or encouragement of illegal activity
- Information that may compromise the safety or security of the public or public systems
- Any content removed based on these guidelines must be retained, including the time, date and identity of the poster when available
- Content that otherwise violates any applicable federal or state law, and/or exposes the Town to any liability claim.

Submission of comments by members of the public to Town Social Media may constitute participation in a limited public forum. Town Social Media is subject to Public Record Retention Laws.

**User participation in non-Town sponsored social media:**

Users who participate in non-Town sponsored Social Media are encouraged to make it clear they are speaking for themselves when doing so. Users who participate in non-Town sponsored Social Media may not use the Town of Amherst seal, tagline, or other marketing related material in order to avoid confusing visitors, or suggesting the appearance that the Social Media posts are representative of the Town's position, opinion, or view.

**Town Issued Mobile Device Policy:**

The Town may issue mobile devices such as laptops and tablets ("Devices") to users to assist them with conducting Town business-related activities. Use of Town issued Devices is subject to the following:

- Town Devices must be properly inventoried by the IT Department.
- User assumes responsibility to ensure to maintain Devices in a safe, functioning and reasonable condition. Equipment is to remain free of any writing, stickers, or labels that are not the property of the Town. Users are encouraged to contact the Town IT Department with any questions about how to maintain or use Town issued devices.
- Except in emergencies, personal use of Town owned and issued mobile devices is prohibited.
- User agrees to perform regular and routine recommended data backups
- Town Devices should not be left unattended in public places, or in places where they may be subject to harsh environmental conditions. This is for your safety, the safety of your contacts and the people you communicate with.
- Town Devices which are damaged, lost, or stolen must be reported to IT as soon as possible. The Town may, at its own discretion, choose to electronically locate and remotely wipe or reset lost or stolen Devices.



- Town owned Devices must be returned to Department Head or IT upon separation of employment or assignment is completed.

**Town Mobile Device Reimbursement Plan and Policy:**

Departments Heads may identify staff who require regular use of a cell phone or combination cell phone/PDA with data plan, to efficiently and safely perform their primary function(s). Department heads will annually submit a detailed purchase order for Town Manager approval, and again when a staff person is added to or dropped from the reimbursement plan. Staff are responsible for securing and paying for their own cell phone, and the Town will reimburse for the reasonable municipal use of the phone. **All devices approved for reimbursement and/or accessing Town resources, are subject to the terms and conditions of this entire policy.**

Staff requiring regular use of a cell phone at work are eligible for a quarterly (every three months) reimbursement of an amount determined by the Town if a personal cell phone account is established and maintained for Town business use. Staff requiring regular use of a cell phone with data plan are eligible for a quarterly (every three months) reimbursement an amount determined by the Town if a personal cell phone account with a data plan is established and maintained for Town business use. Periodically, and without advanced notice, the Town will require proof that a staff person is maintaining and utilizing an operational cell phone for Town business use.

**Personal Device Use Policy:**

The Town recognizes that some Users may prefer privately owned or personal technology devices such as laptops, tablet and cell phones (“Personal Devices”) which they are interested in using for Town business-related purposes. The Town will not be responsible for any Personal Devices, or any damage or loss that might arise from using Personal Devices to remotely connect to, interface with, integrate with, or interact with Town Resources.

**Compliance:**

Violations of this Policy may result in disciplinary actions as deemed applicable by the Personnel Procedures Manual, the Town Manager and/or the appropriate collective bargaining agreement. If violations of this Policy are discovered that consist of illegal activities, the Town may notify the appropriate authorities. The Town reserves the right to pursue appropriate legal actions to recover any financial losses suffered as a result of violations of this Policy.

TOWN OF AMHERST  
**Acknowledgement of Technology Use Policy**

Your signature at the bottom of this page acknowledges your receipt and understanding of this Policy and will be placed in your personnel file.

By using Town Technology Resources and Materials, you agree to be bound by this Policy.

- Users of Town Resources and Materials hereby release the Town of Amherst and its personnel from any and all claims and damages of any nature arising from a User's use of (or inability to use) any Town Resources or Materials.
- The Town reserves the right to amend this Policy without prior notice and to take such further actions as may be necessary or appropriate to comply with applicable local, state and federal laws, as well as new and emerging technology trends.

**This document must be signed and submitted to IT within two (2) business days of user's start date, or your accounts will be disabled.**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Department

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*cc: Human Resources*



# **Town of Amherst Vehicle Use Policy & Travel Policy**

*Approved by Town Manager, July 2018*

## **1. PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines and standards for:

- Town of Amherst vehicle use and assignments
- Compensation for personal vehicle use for work related travel
- Responsibilities when driving a Town of Amherst or a personal vehicle
- Vehicle accident reporting

## **2. APPLICABILITY**

- a. This entire policy applies to all employees. Employees whose employment is regulated by individual agreement or collective bargaining agreement are subject only to those portions of this policy that are not specifically regulated by law or such agreement.
- b. If any provision of this policy violates any governing law or regulation, or if any law or regulation applicable to this policy becomes effective after the effective date of this policy, then this policy shall be deemed changed to be in compliance with such governing law or regulation.
- c. Employees assigned Town vehicles, or provided with a vehicle stipend, or who use their personal vehicle for work related travel, will be required to sign a confirmation of receipt of this policy.
- d. Non-compliance with any and all applicable provisions of this policy may result in disciplinary action up to and including removal of Town vehicle privileges, suspension and/or termination from Town employment.

## **3. DEFINITIONS**

Commuting – the use of a Town of Amherst vehicle for travel between the employee's residence and his/her principal work location. Under Internal Revenue Services (IRS) regulations, the benefits of using a Town of Amherst Vehicle for commuting is considered to be taxable income to an employee and the value of the personal use of the Municipal Vehicle will be included in his/her compensation.

Expense Reimbursement – payment for approved expenses (parking, tolls, etc.) relating to personal vehicle use for Town business upon receipt of written documentation. Expense reimbursement is not considered to be a salary item.

Personal vehicle – that vehicle owned or available for private use by the employee.

Town of Amherst Vehicle - those automobiles, trucks, vans, or other self-propelled equipment owned, rented, or leased by the Town of Amherst and licensed for travel on a public way.

Vehicle Stipend – the amount approved by the Town Manager and/or Finance Director to compensate an employee for regular or routine use of a personal vehicle for work related travel. Vehicle stipends are considered salary and therefore subject to taxation. Such Stipend may be rescinded with ninety day written notice and are paid in lieu of personal vehicle expense reimbursement.

Mileage Reimbursement – the per mile amount approved by the Town Manager to compensate an employee for use of a personal automobile for town business. Mileage reimbursement is not considered to be salary.

#### **4. VEHICLE USE**

##### **A. Town of Amherst Vehicle**

Certain positions require employee access to Town vehicles, either during work or on a 24-hour on-call basis. Unless otherwise designated, Town vehicles are not personal vehicles and are not for personal use. Town vehicles are assigned solely for purposes consistent with providing municipal services to its residents and businesses.

##### **B. Personal vehicle Expenses**

The Town of Amherst reimburses employees for reasonable expenses which they incur as a result of personal vehicle use during work hours for the Town.

##### **C. All vehicle use is subject to motor vehicle and driving record check**

Any employee using a Town vehicle or personal vehicle to for work related travel may be subject to a driving record check and required to complete and submit a motor vehicle release form. The Police Department shall obtain a copy of the employee's driving record from the license issuing agency and report its findings to the Director of Human Resources and applicable Department Head. If it is determined that the driving record of the employee is a safety concern, the employee will be so advised and may be prohibited from use of either a Town vehicle or personal vehicle for work related travel.

#### **5. PROCEDURES**

##### **Work Related Travel in Personal vehicles**

1. An employee authorized to use a personal vehicle for work-related travel shall be reimbursed for mileage at the rate in effect at the time of travel unless covered by contract or stipend. To be reimbursed, employees must seek reimbursement from the Accounting Department and submit with appropriate back-up documentation and/or receipts within 30 days. Reimbursement will be made by Electronic Funds Transfer (EFT). The Town will reimburse for documented tolls and reasonable parking expenses incurred on the job in a Town or personal vehicle.
2. Employees who are required to use a vehicle to perform work for the Town on a regular recurring basis may be compensated with a periodic vehicle stipend. The amount of the stipend will be determined by the Comptroller. Employees receiving a periodic vehicle stipend may be reimbursed for reasonable parking expenses. Employees will not be reimbursed for tolls that are paid by the employee during the normal commute to work.
3. Employees who are authorized to use personal vehicles for work related travel are required to demonstrate proof of state mandated minimum insurance coverage upon request.

##### **Assignment of Town Vehicle**

Employees must show proof of a valid Massachusetts motor vehicle operator's license prior to being assigned a Town vehicle. Vehicles are assigned consistent with department workload and employee function. The assignment of vehicles may be rescinded at any time by the Town Manager or Department Head. The following positions are currently assigned a town vehicle and authorized 24-hour use:

Police Chief  
Police Captains  
Fire Chief

Superintendent of Public Works  
Assistant DPW Superintendent  
Assistant Fire Chiefs



The assignment of vehicles for 24-hour use will be made by the Town Manager and will only be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions. During a leave of absence whether paid or unpaid, the Town vehicle will be returned to the department for the duration of the leave. Criteria used in determination of eligibility for 24-hour vehicle use include: Official designated on-call status; Requirement for frequent emergency availability; and or Emergency or other equipment contained in the vehicle. Persons assigned a town vehicle may not additionally receive a vehicle stipend.

#### **Non-Assigned Town-Owned Vehicle**

Town owned vehicles not specifically assigned to an employee, such as DPW vehicles, police cruisers, etc., are not to be used for personal use.

### **6. RESPONSIBILITIES WHEN DRIVING TOWN AND/OR PERSONAL VEHICLES FOR WORK.**

- a. Town vehicles may only be used for town business. Misuse of an assigned Town vehicle is an ethics violation under Massachusetts General Laws, Chapter 268A. Using public equipment or resources for personal use or use of an official position to obtain an unwarranted privilege not similarly available to others violates the law.
- b. Employees must maintain and keep in their possession a valid motor vehicle license issued by the Commonwealth of Massachusetts. Operators must exercise sound judgment at all times and should avoid any appearances of misuse.
- c. Town vehicles will not be used to transport passengers who are not Town employees or individuals directly associated with Town work activities (committee members, consultants contractors, etc.).
- d. Smoking, including the usage of e-cigarettes, chewing tobacco or any other tobacco product, is prohibited in a Town vehicle.
- e. Employees must refrain from using hand-held cell phone or other personal electronic devices such as iPad or tablet, etc., while the vehicle is moving unless the employee must place an emergency call to 911 or to another local emergency number. The cell telephone may be used with a hands-free set. Town employees will comply with current state law regarding cell phone use while driving.
- f. Town vehicles should contain only those items for which the vehicle is designed. The Town shall not be liable for the loss or damage of any personal property transported in the vehicle.
- g. Employees are expected to keep Town vehicles clean, trash and smoke free and report any needed repair, malfunction, damage, or other vehicle problems to the appropriate supervisor immediately.
- h. Employees assigned Town vehicles for commuting purposes are expected to lock the vehicle when not in use. Operators must not leave vehicles unattended while the engine is idling, with the ignition keys in the ignition, in the lock or anywhere in the vehicle.
- i. Except as provided by law, employees must wear seatbelts in town vehicles or personal vehicles while on town business during operation of the vehicle.

- j. Employees may not operate Town or personal vehicles while being used for town business, under the influence of alcohol, illegal drugs, or prescription drugs or medications which may interfere with effective and safe operation.
- k. **The transportation of unopened alcoholic containers is prohibited.** Additionally, unless required to carry such items in the performance of duties, employees are prohibited from possessing open alcoholic containers, illegal drugs, or controlled substances in any vehicle being used for work related travel.
- l. Employees operating vehicles on town business shall drive defensively, avoid unnecessary idling, carpool when able, and obey all applicable traffic and parking regulations, ordinances, and laws. Employees who incur parking or other fines will be personally responsible for payment of such fines. Employees who are issued citations for any offense while using a Town vehicle must notify their supervisor immediately when practicable, but in no case shall notification exceed 24 hours.
- m. An employee who is arrested for or charged with a motor vehicle offense for which the punishment includes suspension or revocation of the motor vehicle license, whether in a personal vehicle or Town Vehicle, must notify their supervisor immediately when practicable, but in no case shall notification exceed 24 hours. Conviction for such an offense may be grounds for loss of Town vehicle privileges and/or further disciplinary actions.
- n. When using a Town vehicle, employees are required to obtain fuel from a designated town fueling facility, unless fueling is required in the course of out of town travel. The use of Town fuel for personal use is prohibited.

## 7. ACCIDENT PROCEDURES

When an employee using a Town Vehicle or a personal vehicle on work related travel is involved in a motor vehicle accident, the operator must **Stop the vehicle; and**

- Evaluate for personal safety and the safety of occupants. Call 911 or ask any other person to call 911 if there is any question of injury.
- When able, personally or ask another person to obtain and document the following:
  - a. Name address, driver's license number of the other driver(s);
  - b. Name and address of the vehicle owner(s);
  - c. Registration number of the other vehicle(s) involved;
  - d. Name and address of other driver(s) insurance company(s); and.
  - e. Name and address of any witnesses to the accident.
  - f. Immediately report details to the employee's supervisor
- Whenever any person has been injured and/or vehicles have suffered significant damage, the local or state police must be called to the scene. Do not remove the vehicle in these circumstances until authorized to do so by the police. Refrain from discussion of fault or liability with anyone.
- As soon as possible or within 48 hours of the accident, the operator must complete a Vehicle Accident Report (VAR) and give it to their direct supervisor and the Comptroller's office to process a claim with the insurance company.
- If applicable, an injury report available from Human Resources should be completed and filed with the Department Head.



# **Appendix C – Fair Labor Standards Act Position Titles by Level**

## **Non-Union FLSA Exempt**

### **Level 3**

Assistant Collector  
Assistant Treasurer  
Nurse  
Payroll & Benefits Coordinator

### **Level 4**

Assistant Comptroller  
Assistant to the Town Manager  
Librarian II  
Program Director

### **Level 5**

Assistant Recreation Director  
Budget/Software analyst  
Senior Planner  
IT Network Systems Analyst  
HR Manager

### **Level 6**

Senior Center Director  
Economic Development Director  
Town Clerk  
Health Trust Manager  
IT Applications Manager

### **Level 7**

Assessor  
Asst. Information Technology Director  
Building Commissioner  
Asst. Superintendent – Operations  
Comptroller  
Health Director  
Treasurer/Collector  
Recreation Director  
Planning Director

### **Level 8**

Director of Conservation & Development  
Information Technology Director  
Library Director  
Human Rights & Resources Director  
Health and Community Services Director

**Level 9**

No positions

**Level 10**

Finance Director

Superintendent of Public Works

Assistant Town Manager

**Non-Union FLSA Non-Exempt**

**Level 2**

Site Coordinator

Crew Supervisor II

Librarian I

Confidential Administrative Assistant

**Level 3**

Facilities Supervisor –Library

Procurement Officer

Associate Planner

**Level 4**

Supervisor-Dispatch/Communications

IT Applications Analyst

**Unions**

S.E.I.U., LOCAL 888 All positions FLSA non-exempt

Amherst DPW Association- all positions FLSA non-exempt

Amherst DPWS Association Levels 1-3 FLSA non-exempt; Levels 4-6 Exempt

Firefighters Local 1764-Firefighters FLSA non-exempt; Captains and Assistant Chief and Chief FLSA Exempt

MassCops Amherst Police Association – All positions FLSA non-Exempt

Amherst Police Supervisors Association- All Positions FLSA Exempt



# **Appendix D - Personnel Procedures Manual Acknowledgement**

The Personnel Rules and Regulations describe important information about employment with the Town of Amherst. I understand and acknowledge that these regulations are not a contract of employment, and I may contact the Human Resources Director if I have any questions.

I became an employee at the Town of Amherst voluntarily. I understand and acknowledge that there is no specified length to my employment at the Town of Amherst and that my employment is at will. I understand that I may terminate my employment at any time, with or without cause or advance notice. I also understand and acknowledge that the Town of Amherst may terminate my employment at any time, with or without cause or advance notice, as long as it does not violate federal or state law.

The Personnel Procedures Manual and policies may be updated at any time to add to, delete or reflect changes in policies, procedures and laws. Employees will be apprised of changes and all updates will be posted to the town website and intranet. Changes can only be made through Town Manager, Personnel Board or Legislative Body adoption of those changes.

The policies and procedures contained in this manual apply to all municipal non-school employees of the Town of Amherst except elected officials, and members of boards, committees, and commissions. Where there is a conflict between a collective bargaining agreement or individual employment contract and the Personnel Procedures Manual, the collective bargaining agreement, or the employment contract, shall take precedence.

I have received the Personnel Procedures Manual and I understand that it is my responsibility to become familiar and comply with its contents.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Department: \_\_\_\_\_ Date: \_\_\_\_\_

